

EVALUATING ATL ZONING 2.0

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delivered to Atlanta City Attorney Marquetta Bryan

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INTRODUCTION

A zoning code is a blueprint for a community's future, impacting people for generations. Revising and adopting a new zoning code presents a significant opportunity to shape economic, social, environmental, and public-health outcomes for the better.

Recognizing the importance of zoning, the City of Atlanta embarked several years ago on a comprehensive rewrite of its zoning code. In March 2026, the City asked me to evaluate whether its draft code released in December 2025 (the "Draft Code") would enhance upward economic mobility. The City asked me to focus on three strategies through which the Draft Code might improve economic mobility: streamlining the entitlement process for housing and related development; expanding the availability of diverse housing options; and reducing the cost of creating new housing.

In addressing the City's questions through this memo, I draw on the following professional experiences: founding and overseeing the team building the National Zoning Atlas, which to date has digitized information about zoning conditions in more than 10,000 jurisdictions nationwide, covering nearly 1.2 million pages of zoning codes; authoring or co-authoring four books and two treatises on land use law (including the "black letter" Fourth Restatement of Property Law land use volume); launching a successful statewide zoning reform coalition; and leading the award-winning zoning code overhaul for Hartford, Connecticut. I also bring the perspective of a licensed architect able to assess regulatory impacts in three dimensions.

Based on those experiences and a careful review of the Draft Code, I offer the opinion that the Draft Code fails to advance the economic mobility goals of the City, instead creating a confusing permitting system that could have worse outcomes than the current zoning code. First, while appearing on the surface to streamline the entitlement process, the Draft Code creates a complex regulatory framework that undermines predictability and flexibility at key junctures. Second, while the Draft Code modestly facilitates diverse housing options, the Draft Code does not go far enough to ensure such housing will actually be built. Third, the Draft Code reduces costs in some ways (notably by lifting many parking mandates), but it increases costs in other ways.

This memo proceeds in several parts. The first Part affirms the City's push to replace Atlanta's current zoning code given the City's economic mobility challenges and given the current code's relatively poor approach to housing. The second Part evaluates the extent to which the Draft Code advances the city's three economic mobility strategies. The third Part offers recommendations for changes to the structure and content of the Draft Code so the next draft better promotes economic mobility.

I. THE CURRENT CODE SHOULD BE REPLACED

Before evaluating the Draft Code, I want to explicitly acknowledge the need to replace Atlanta’s current zoning code. Drafted in 1982, the current code unnecessarily constrains housing production, especially in high-opportunity neighborhoods. As a result, too many residents are locked out of opportunities that could help them get ahead. Though a full diagnosis of the current code is out of scope for this memo, this Part will briefly discuss Atlanta’s economic mobility challenges and the current code’s failure to address them.

A. THE CITY’S ECONOMIC MOBILITY CHALLENGES

In recent years, Atlanta policymakers have recognized the need to promote upward economic mobility: namely, the ability of Atlantans—regardless of race, ethnicity, origin, or neighborhood—to improve their financial or social status over time. For too long, low-income Atlantans have been confined to low-opportunity neighborhoods, with no real hope of accessing the same opportunities available to people fortunate enough to live in high-opportunity neighborhoods.¹ In a region with extremely high levels of income inequality,² the rich continue to get richer, while the poor stay poor.

To try to reverse these trends, the city’s current mayor, Andre Dickens, has set forth a vision of Atlanta as “a city of opportunity for all.”³ This vision focuses in part on the accessibility of safe, secure housing in high-opportunity neighborhoods, recognizing that access to housing supports strong economic and community development, while also improving quality of life and health outcomes.⁴ Mayor Dickens has promoted several strategies to improve access to housing: creating or preserving 20,000 units of affordable housing; ensuring public land can be used for housing; improving the

¹ See Raj Chetty et al., *Changing Opportunity: Sociological Mechanisms Underlying Growing Class Gaps and Shrinking Race Gaps in Economic Mobility*, Nov. 2025, at 3, https://opportunityinsights.org/wp-content/uploads/2024/07/ChangingOpportunity_Paper.pdf (finding that outcomes for Atlanta’s low-income Black families were stagnant over a 15-year period, while outcomes in Charlotte were far more favorable); Raj Chetty et al., *The Opportunity Atlas: Mapping the Childhood Roots of Social Mobility* 42 (Nat’l Bureau of Econ. Rsch., Working Paper No. 25147, 2018, revised 2025), <https://www.nber.org/papers/w25147>.

² See, e.g., William P. Nobles III, *Atlanta Has the Highest Income Inequality in the Nation, Census Data Shows*, ATLANTA J. CONST., Nov. 27, 2022, at A.

³ Office of the Mayor, City of Atlanta, *A City of Opportunity for All, Moving Forward Agenda*, <https://www.atlantaga.gov/government/mayor-s-office/moving-atlanta-forward-agenda/a-city-of-opportunity-for-all> (last visited May 22, 2026).

⁴ U.S. DEP’T OF HOUSING & URB. DEV., *MOVING TO OPPORTUNITY FOR FAIR HOUSING DEMONSTRATION PROGRAM: FINAL IMPACTS EVALUATION* 79-82 (2011).

quality of housing; reducing homelessness; facilitating faith-based institutions' housing development; and improving neighborhoods holistically.⁵

Critical to the realization of the mayor's vision is a zoning code that facilitates the creation of housing, whether through new construction or through the rehabilitation and conversion of existing buildings.⁶ The current zoning code falls short.

B. ATLANTA'S CURRENT ZONING IS MEASURABLY PROBLEMATIC

A full assessment of the effectiveness of Atlanta's current code in achieving economic mobility goals could take up hundreds of pages. Public testimony and media reports about the current code are rife with complaints about the code's outdated regulatory structure, including procedural barriers like the special administrative permit and countless substantive limitations on housing construction, including affordable-housing mandates, parking mandates, and transition-area density caps. In the interest of brevity, this Subpart offers a few basic metrics to illuminate several of the current code's key challenges.

To assist with this discussion, I have identified nine peer cities—Austin, Charlotte, Dallas, Durham, Jacksonville, Nashville, New Orleans, Raleigh, and Richmond—whose zoning laws are catalogued in the National Zoning Atlas.⁷ As noted above, the Atlas has logged information about zoning conditions for thousands of jurisdictions using a standardized methodology that enables apples-to-apples comparison. Viewing Atlanta's current code in light of the codes of these nine other cities can highlight the challenges the code poses to economic mobility.

A streamlined entitlement process that establishes clear permitting rules for housing can help ensure such housing is actually built. Atlanta's current zoning code is longer and more complicated than nearly every other code in the country. One way to gauge this complexity is the number of pages of zoning text: 852. Atlanta has one of the longest codes in the National Zoning Atlas database for a city of its size. Atlanta's code is more than three times as long as those of Chicago (269 pages) and Philadelphia (277). And it is longer than any of the nine selected peer cities.⁸

Another way to gauge complexity is the number of zoning districts: 268. This figure exceeds (in absolute terms) all but *four* jurisdictions (of thousands) in the National Zoning Atlas database:

⁵ With regard to neighborhood improvement, the mayor has identified seven target neighborhoods: Thomasville Heights, English Avenue/ Bankhead, Grove Park, West Hollowell/ Bowen, East Campbellton, West Campbellton, and Downtown. *Id.*

⁶ See Yonah Freemark, Lydia Lo, Sara C. Bronin, *Bringing Zoning Into Focus: A Fine-Grained Analysis of Zoning's Relationships to Housing Affordability, Income Distributions, and Segregation in Connecticut*, Urban Institute Research Series (2023) (analyzing National Zoning Atlas data to find correlations between zoning codes and housing outcomes).

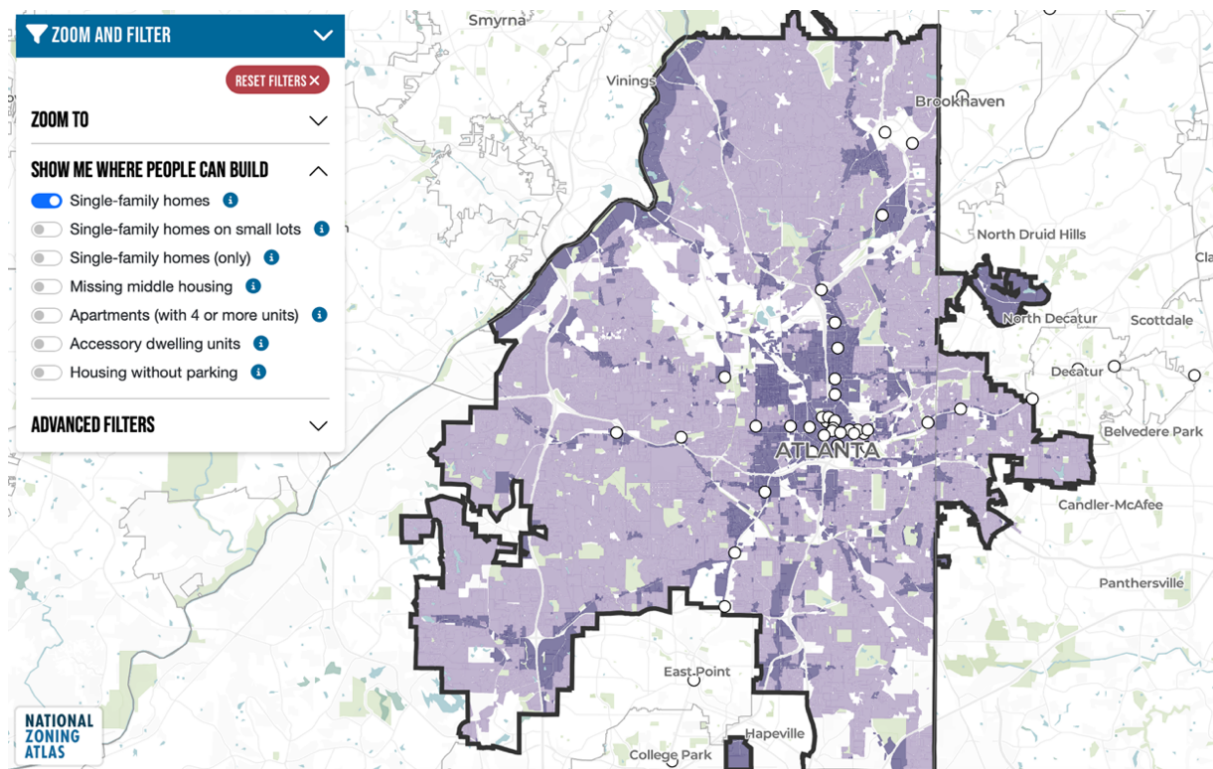
⁷ All maps and most statistics in this section are taken from the National Zoning Atlas, at www.zoningatlas.org/atlas, or the National Zoning Atlas Zoning Snapshots, at www.zoningatlas.org/snapshots.

⁸ Their page counts are: Austin (289), Charlotte (626), Dallas (440), Durham (769), Jacksonville (676), Nashville (238), New Orleans (440), Raleigh (583), and Richmond (375).

Boston, Los Angeles County, New York, and Seattle.⁹ Adjusting for population, Atlanta’s outsized number of zoning districts represents the highest ratio of districts per capita of all large cities in the National Zoning Atlas database. By contrast, the nine selected peer cities have, on average, 75 zoning districts.¹⁰ The average number of districts per jurisdiction nationally is just 17—one-sixteenth the number of Atlanta’s zoning districts. Complexity is baked into Atlanta’s current code, and it is no wonder that many view it as hopelessly complicated.

The National Zoning Atlas can also help us understand how Atlanta’s current code substantively treats housing relative to other places. The Atlas logs where, and to what extent, local zoning allows by right, allows after a public hearing, or prohibits different types of housing. Cities that exclusively or primarily allow single-family housing are thought to be exclusionary; cities that allow apartments liberally are thought to be more permissive. Most cities, including Atlanta, allow a mix of housing options, though they predominantly allow single-family housing.

The following map of Atlanta shows (in purple¹¹) the large amount of land allowing single-family housing by right—95% of all residentially zoned land:

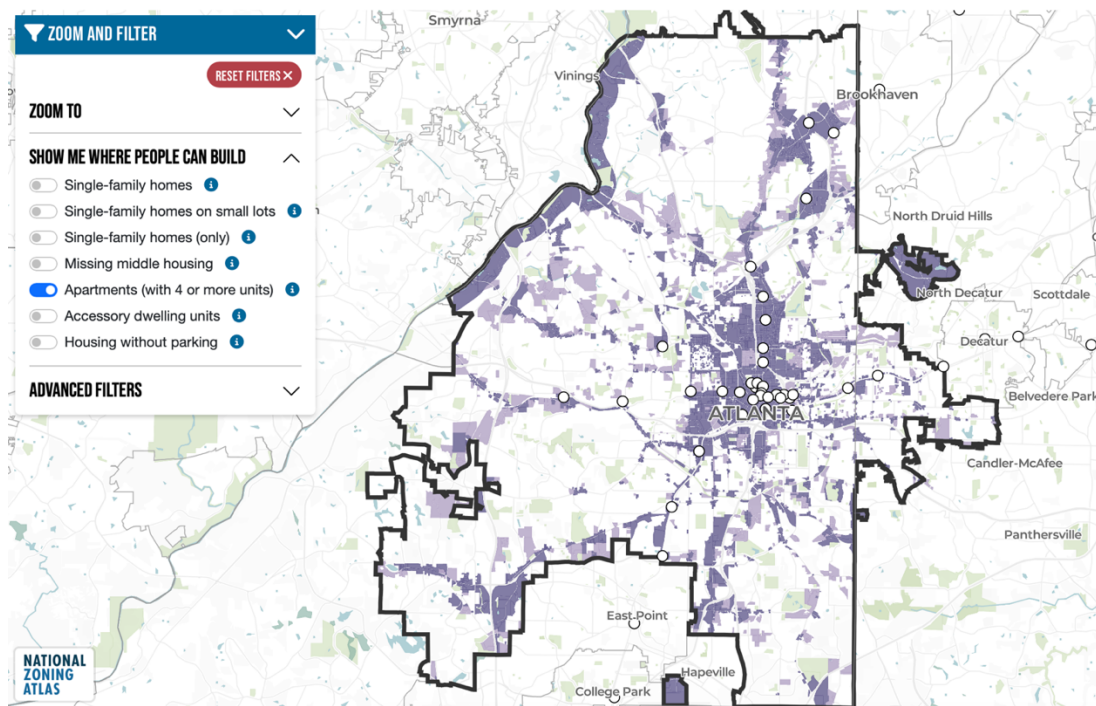


⁹ Their district counts are: Boston (341), Los Angeles County (297), New York City (427), and Seattle (352).

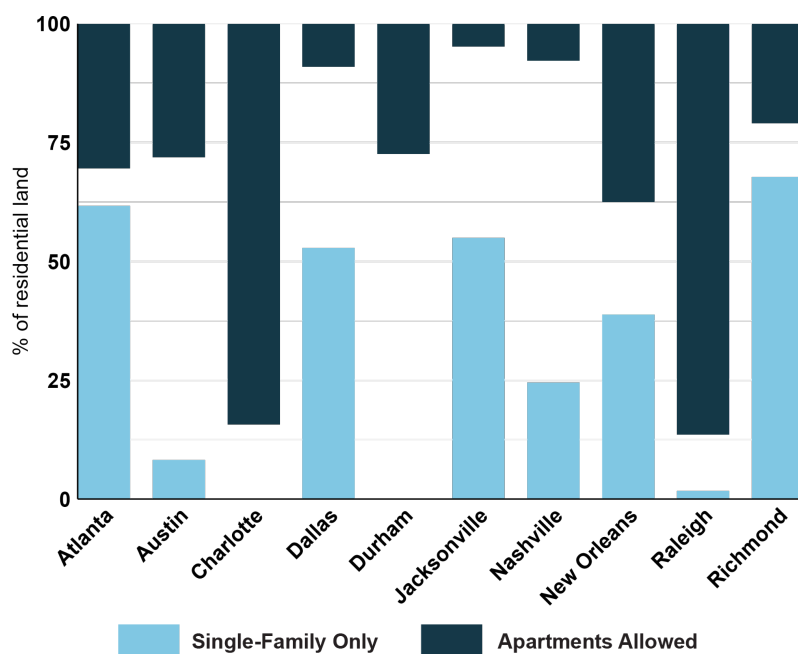
¹⁰ Their district counts are: Austin (66), Charlotte (47), Dallas (82), Durham (47), Jacksonville (69), Nashville (132), New Orleans (139), Raleigh (30), and Richmond (62).

¹¹ The lighter purple shows land zoned primarily residential; the darker purple shows mixed-use with-residential land.

The following map shows (in purple) the smaller portion of land where four-or-more-family homes (“apartments”) are allowed by right. Apartments are not allowed on much land in the high-income neighborhoods in the northern part of Atlanta—or in many other areas where they are needed.

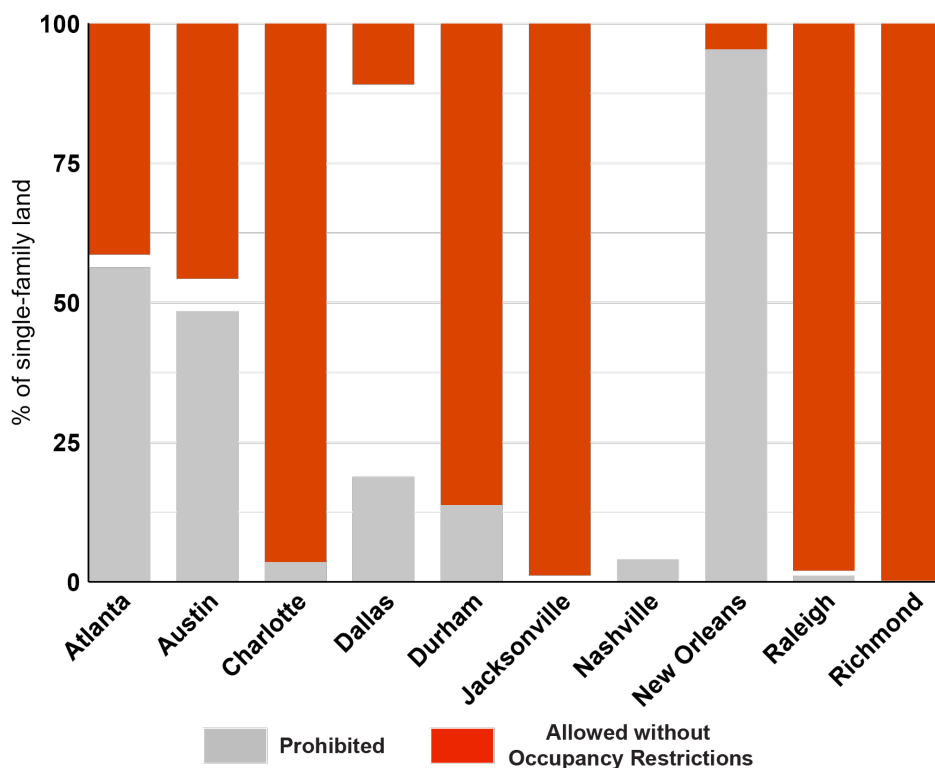


Comparing Atlanta’s current zoning code to the nine selected peer cities highlights additional issues. The following chart depicts the portion of residential land in each jurisdiction allowing *only* single-family housing by right (in light blue) and the portion allowing apartments by right (in navy blue):



The chart confirms that Atlanta has a higher portion of its land devoted to *only* single-family housing than any selected peer city except Richmond. Several cities have very little (Austin, Nashville, Raleigh) or even *no* land (Charlotte, Durham) limited to just single-family housing. When it comes to apartments, Atlanta allows apartments by right on approximately the same portion of residential land as Austin and Durham, but a smaller portion than Charlotte, New Orleans, or Raleigh. While by no means a definitive analysis, the chart suggests Atlanta is out of step with its peers in the strength of its preference for single-family neighborhoods.

Greater housing diversity may come in the form of multi-family housing, or it may come in the form of accessory dwelling units (ADUs), which are smaller dwelling units that can be tucked into the same lot as a larger home.¹² ADUs have gained in popularity in recent years as a modest but impactful way to create more housing in existing neighborhoods. The chart on the following page shows the portion of single-family land on which the ten cities allow ADUs by right and without occupancy restrictions (in red-orange), and the portion on which the cities prohibit ADUs. Atlanta does not compare favorably. It prohibits ADUs on a higher portion of its single-family land than any city but New Orleans, and it allows ADUs on less than half of such land. Austin, Charlotte, Durham, Jacksonville, Raleigh, and Richmond all allow ADUs by right on greater amounts of land. It might bear noting two statistics not on this chart: Dallas and Nashville allow ADUs by right on 70% and 95% (respectively) of their single-family land albeit with occupancy restrictions. They too, therefore, allow ADUs on far more single-family land than Atlanta.



¹² See National Zoning Atlas, Accessory Dwelling Units, at www.zoningatlas.org/adu (defining ADUs and providing nationwide statistics about local permitting of ADUs).

The four metrics noted above—page count, district count, single-versus-multi-family allowances, and ADU allowances—can help us roughly gauge the manner in which Atlanta’s current code treats housing. These metrics confirm that Atlanta adds unnecessary process to, limits the construction of, and increases costs of new housing.

Atlantans deserve a simpler, better zoning code. With the right zoning code, far more than 20,000 units of housing can be created. Public land can be used for housing and complementary uses along with it. As the housing stock is refreshed and expanded, it can improve in quality. With a code focused on housing creation, unhoused people who need housing can more easily obtain it. If empowered to act, faith-based institutions can satisfy both their moral imperative to assist those in need and the financial needs of their congregations. And neighborhoods can be strengthened not only with new homes, but with the services, retail, and institutions that can support residents. That’s why getting the Draft Code right is so important.

II. EVALUATING THE DRAFT CODE'S IMPACT ON ECONOMIC MOBILITY

With that background, this Part evaluates whether the Draft Code enables the creation of diverse, affordable housing options in neighborhoods across Atlanta, which would in turn promote economic mobility.

At the outset, I want to point out what Atlanta's Draft Code gets right. It offers clear diagrams to translate often-opaque concepts, specifies mandates in a consistent way, and consolidates several regulatory requirements scattered across the current code. These changes improve on the current code and are commendable. That said, my assignment is to focus in on the extent to which the Draft Code facilitates diverse housing options, and thus economic mobility. When evaluated against that goal, the Draft Code still has a lot of room to improve.

In this Part, my evaluation focuses on three strategies through which the Draft Code might facilitate economic mobility. First, I evaluate whether the Draft Code creates a streamlined entitlement process for housing; I summarize the complexities inherent in a zoning text running nearly a thousand pages and highlight specific uncertainties and rigidities at key points in the process. Second, I evaluate whether the Draft Code expands the availability of diverse housing options; I find that the Draft Code makes it very difficult to produce anything other than single-family housing. Third, I evaluate whether the Draft Code reduces the cost of creating new housing; I find that while the Draft Code reduces costs in some respects, it increases costs or maintains high costs in others.

All in all, I conclude that the Draft Code is not an improvement over the current zoning code, and in some ways could be worse.

A. STREAMLINING THE ENTITLEMENT PROCESS

A zoning code establishes processes through which uses may ultimately be built. Local governments wishing to promote specific land uses through the zoning process will minimize the “amount” of process required for the use being promoted. If a city really wants to promote diverse housing options, for example, then it will establish straightforward, by-right approval processes that can be administered by any planning staff member, with flexibility enabled within established guardrails.

At a very basic level, the Draft Code is unwieldy and difficult to administer by virtue of its length and number of potential regulatory outcomes (i.e., its “zone strings”). Moreover, the Draft Code makes it difficult to obtain traditional variances, reducing flexibility for housing developers who might need it by totally barring use variances, variances for lot size reductions, and variances for increases to the floor-to-area ratio. And the Draft Code establishes an administrative variance process

that concentrates power in a single administrative official and opens the door to bottlenecks, uneven treatment, and even corruption. A brief discussion of these three procedural aspects of the Draft Code demonstrates how it fails to streamline the entitlement process for housing.

1. AN UNWIELDY, DIFFICULT TO ADMINISTER CODE

As noted in Part I.B., Atlanta's current code is already measurably more complicated than nearly every other code in the country, by virtue of its length (852 pages) and number of zoning districts (268). The Draft Code would make these unfortunate statistics worse.

A trimmer Draft Code would have been an improvement over the current code. Instead, at 981 pages, the Draft Code introduces new steps, details, and approval points into the regulatory process. Defenders of the draft might argue that the amount of *prose* in the Draft Code has been reduced from the current code. But the prose has been replaced with diagrams that pack more regulatory content per page, resulting in a greater overall number of rules than the current code. And there are three chapters—Chapters 5, 6, and 7 (discussing overlay, historic, and legacy districts, respectively)—whose level of detail, repetition, and contradictions adds a whole secondary layer of confusion to the Draft Code. I cannot even properly evaluate what these chapters say because it is difficult to find all of the districts established in these chapters in the Draft Code zoning map, and because the time allotted for me to draft this memo is quite limited. But they may well undermine (by limiting development or creating confusion) some of the other Draft Code provisions otherwise permitting housing.

I describe the impact of some of these rules later in this memo. But the increased page count and new, highly-articulated sets of rules signal the potential for development roadblocks, both for housing and every other use that Atlanta might want to promote.

It is easy to compare the Draft Code's length to Atlanta's current code: count the pages. It is practically impossible to quantify the change in the number of zoning districts given the unusual regulatory structure of the Draft Code. The closest equivalent to zoning district in the new Draft Code is the novel, so-called "zone string." A zone string combines "form districts," "use districts," "overlay districts," "historic and landmark districts," and/or "legacy districts" in a jumbled mishmash of designations and requirements. Unfortunately, the proposed zoning map lacks a full legend accounting for all of the zone strings.¹³

In theory, one could count the zone strings shown in the Draft Code's proposed zoning map. To test this theory, I reviewed the portion of the map depicting in the following image and covering the Sweet Auburn area east of downtown, where the Martin Luther King, Jr., Historical site is

¹³ See City of Atlanta, ATL Zoning 2.0: Official Zoning Map: Zoning Districts – Draft V2, at <https://atlzoning.konveio.com/official-zoning-map-zoning-districts-draft-v2> (offering interactive GIS version and a static PDF version (with 52 distinct maps), neither of which contain a legend) (hereinafter "Draft Code Zoning Map Webpage").

located. In just these few blocks, which constitute less than 1% of the acreage in the city, I *think* I count 31 different zone-string designations.¹⁴

Based on this neighborhood-sample manual count, a skim of other neighborhood maps, and an understanding that the Draft Code contains possibly-unmapped additional zone string elements, I believe that the overall number of zone strings exceeds, and maybe even far exceeds, the number of zoning districts (268) in the current code. My inability to ascertain the precise number of new zoning-district equivalents (i.e., the zone strings) speaks to the code's complexity.

Property owners wishing to be afforded relief from the provisions of a zoning code will often request a variance to deviate from the strict terms of the code. Typically, to receive a variance, a property owner must show a local board that they would suffer some sort of hardship if the Draft Code were applied as written. While Georgia courts have historically applied this hardship standard, things changed in 2022. That year, the Georgia legislature overhauled its zoning enabling statute and, among other things, gave broad latitude to local governments in establishing a variance process.¹⁵ State law merely requires that local governments adopt standards and criteria that “may include any factors which the local government finds relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property.”¹⁶

Atlanta could have taken advantage of this broad discretion by establishing flexible criteria for variances, either for property owners generally, or for housing developers specifically. In fact, given the extremely onerous nature of the Draft Code, the variance process could provide a vital lifeline for reasonable development of land.

Instead, the Draft Code makes it exceptionally difficult to obtain variances. For one thing, the Draft Code carries over the onerous criteria contained in the current zoning code.¹⁷ Specifically, the Draft Code requires that the board of zoning appeals make four findings before granting a variance:

- a. There are *extraordinary* and *exceptional* conditions pertaining to the particular piece of property in question because of its size, shape or topography;
- b. Such conditions are *peculiar* to the particular piece of property involved;
- c. The application of the zoning ordinance to this particular piece of property would create an *unnecessary hardship*; and
- d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance.¹⁸

The Draft Code also establishes factors the board may consider in determining whether a property owner demonstrates a hardship.¹⁹ These factors relate primarily to the characteristics of the property, and do not allow the board of zoning appeals to consider whether the owner is offering a public good to the community. Indeed, the first criteria excerpted above—that a property owner must demonstrate “extraordinary and exceptional” conditions before a variance will issue—relates to conditions specific to the land. It is a particularly high bar—one that few property owners (or their properties) will likely meet.

In addition to setting forth the criteria for which a variance will be granted, the Draft Code specifies certain building and lot-related requirements for which a variance may be requested.²⁰ The Draft Code does not explicitly state that other requirements are off limits, but under the principles of

¹⁷ See ATLANTA, GA., CODE § 16-26-003(1).

¹⁸ DRAFT CODE § 9.6.4.A.1 (emphasis added) (hereinafter “DRAFT CODE”).

¹⁹ *Id.* § 9.6.4.A.2.

²⁰ *Id.* §§ 3.2.2.E.2 (lot width standards beyond 10%); 3.4.1.E.2 (building coverage standards beyond 10%); 3.4.2.E.2 (lot coverage standards beyond 10%); 3.4.3.E.2 (outdoor amenity space standards beyond 30%); 3.5.1.E.2 (amenity zone and pedestrian zone standards beyond 30%); 3.5.1.F.3 (amenity and pedestrian standards beyond 30%); 3.6.1.E.2 (building setback standards beyond 10%); 3.8.1.F.2 (build-to-width standards by up to 30%); 3.10.1.F.1 (building height); 3.10.2.E.2 (side wall height standards beyond 30%); 3.10.3.E.2 (building width standards beyond 30%); 3.11.E.2 (active depth standards beyond 30%); 3.12.1.E.2 (ground story height standards beyond 30%); 3.13.1.E.2 (glazing standards beyond 30%); 3.13.2.E.2 (blank wall width standards beyond 30%); 3.13.3.E.3 (street-facing entry standards beyond 30%); 8.3.1.E.2.c (block/connectivity standards beyond 30% for non-historic and non-landmark districts); 8.3.2.E.3 (vehicle access standards beyond 30%); 8.3.3.E.3 (pedestrian access standards beyond 30%); 8.3.3.E.3 (pedestrian access standards beyond 30%); 8.3.4.E.3 (vehicle parking standards beyond 30%); 8.3.5.E.3 (vehicle parking design standards beyond 30%); 8.3.6.E.3 (vehicle use area standards beyond 30%); 8.3.7.E.3 (bicycle parking standards beyond 30%); 8.4.1.E.2 (transition standards beyond 10%); 8.4.2.E.2 (transition screen standards beyond 10%); 8.4.3.E.2 (frontage screen standards beyond 30%); 8.4.3.E.2 (frontage screen standards beyond 30%); 8.4.4.D.2 (site element screen standards beyond 10%); 8.4.4.D.2 (site element screen standards beyond 10%); 8.4.6.E.1.b (retaining wall standards for House and Neighborhood form districts beyond 50%); 8.4.4.E.2.b (retaining wall standards for all other zoning districts beyond 10%); 8.4.7.E.2 (plants and plant material standards beyond 10%); 8.5.1.E.3 (outdoor lighting standards beyond 30%).

statutory construction, its language may be interpreted to bar other types of variances not explicitly allowed by the draft's terms.

Still, the Draft Code's drafters saw fit to explicitly prohibit variances for three types of regulations relevant to housing development. Notably, the Draft Code prohibits variances for uses.²¹ The general prohibition on use variances carries over from the current zoning code, though the current code oddly allows variances for "drive-in facilities, service stations, mortuaries or funeral homes, or sales lot for automobiles to be located next to adjacent districts."²² The Draft Code could, seemingly, also exempt specific uses (such as housing) from the absolute prohibition on use variances. Instead, it specifically bars "[a]n increase to the dwelling units per lot standards."²³ This means that housing developers who wish to add even a single unit beyond what the zoning code allows will be barred from relief through the variance process. They will even be barred from adding a modestly-sized accessory dwelling unit to a lot where this draft prohibits them.

The Draft Code also prohibits any variance from the minimum lot size.²⁴ No comparable prohibition exists in the Atlanta's current code. As discussed below, minimum lot sizes are one of the most important factors in determining the viability of housing. The larger the lot size, the more expensive the housing (on the large lots), and the less housing can be built in a given geography. It is very unclear to me why the Draft Code would shut off the possibility that a property owner could receive a variance for a smaller lot size than the size mandated by the code.

Yet the Draft Code goes even further down this road: it prohibits the board of zoning appeals from issuing variances that increase to the floor-to-area ratio (a measurement capping the amount of building square footage as a ratio to lot square footage).²⁵ The Draft Code bars developers from seeking a variance to build even a single square foot more than the square footage authorized by the floor-to-area ratio—say, to provide a tenant amenity or to squeeze in one more housing unit in an apartment building. Again, I do not see any such prohibition in the current code.

In sum, the inflexibility embedded in the variance process seems to needlessly make certain types of housing developments out of reach. The Draft Code's variance process—far from being a property owner's relief valve—offers limited flexibility both in terms of the conditions under which it will be offered and in terms of the types of deviations that will be allowed. No state law or judicial precedent of which I am aware requires the Draft Code to be so limited, nor does there seem to be any rational justification for limiting the City's variance authority in these ways.

²¹ *Id.* § 9.6.1.A.2. The Draft Code also limits variances for maximum vehicle parking standards in § 8.3.4 to up to 150% of the maximum. *Id.* §§ 9.6.1.A.1, 9.6.4.A.3.

²² See ATLANTA, GA., CODE § 16-26-003(2).

²³ DRAFT CODE § 3.3.1.D

²⁴ *Id.* § 3.2.1.E.

²⁵ *Id.* § 9.6.1.A.2.

3. A PROBLEMATIC ADMINISTRATIVE VARIANCE PROCESS

The Draft Code creates a novel alternative to the traditional variance process in the form of two administrative variances: administrative modifications and administrative variations.²⁶ These administrative variances offer the opportunity for a property owner to receive approval to deviate from certain requirements related to the building or the lot. The Draft Code defines the available relief to be smaller in degree than the relief available through the traditional variance process.

Decisions to issue administrative variances must be made by the Director of the Office of Zoning Development (the “Director”) and may not be delegated to other City staff.²⁷ The Director may issue a certificate of administrative modification to reduce certain development controls by “a limited amount,” usually around a 10% deviation from a given requirement.²⁸ The types of development controls that may be modified in this manner are further specified in Chapters 3 and 8 of the Draft Code.²⁹ In addition, the Director may issue a certificate of administrative variation for other types of development controls in a slightly greater amount, usually around a 30% deviation from a given requirement.³⁰ The types of development controls that may be modified in this manner are further specified in Chapters 3 and 8 of the Draft Code.³¹

²⁶ *Id.* §§ 9.1.1., 9.1.4.B. The current zoning code offers an administrative variance for the limited purpose of a setback variance for the preservation of mature trees. See ATLANTA, GA., CODE § 16-26-008.

²⁷ The Draft Code allows the Director to delegate other responsibilities to other City staff. The Draft Code clarifies these delegable responsibilities include only “the authority to review for compliance with the Zoning Ordinance applications for building permits and applications for minor site plan amendments previously approved by the City Council,” along with the authority to accept and process applications, to reject incomplete applications, and to approve, to approve with conditions, or to deny applications not otherwise delegated to a board or reserved by the City Council.” *Id.* § 9.1.4 (emphasis added). This seems to include the Director’s authority to make final decisions on common review procedures, development reviews, sign permits, and temporary use reviews. *Id.* §§ 9.1.1., 9.1.4.B.

²⁸ *Id.* § 9.5.2.A.1.

²⁹ See *id.* §§ 3.2.2.E.1 (lot width standards by up to 10%); 3.4.1.E.1 (building coverage standards by up to 10%); 3.4.2.E.1 (lot coverage standards by up to 10%); 3.4.3.E.1 (outdoor amenity space standards by up to 10%); 3.5.1.E.1 (amenity zone and pedestrian zone standards by up to 10%); 3.6.1.E.1 (building setback standards by up to 10%); 3.8.1.E.1 (build-to-width standards by up to 10%); 3.10.2.E.1 (side wall height standards by up to 10%); 3.10.3.E.1 (building width standards by up to 10%); 3.11.E.1 (active depth standards by up to 10%); 3.12.1.E.1 (ground story height standards by up to 10%); 3.12.2.E.1 (ground story elevation standards by up to 30%); 3.13.1.E.1 (glazing standards by up to 10%); 3.13.2.E.1 (blank wall width standards by up to 10%); 3.13.3.E.1 (street-facing entry standards by up to 10%); 8.3.1.E.1 (block/connectivity standards in historic and landmark districts); 8.3.1.E.1.a (block/connectivity standards by up to 10% in all other districts); 8.3.2.E.1.a (vehicle access standards by up to 10%); 8.3.2.E.1.b (installation of certain directional driveways); 8.3.3.E.1 (pedestrian access standards by up to 10%); 8.3.4.E.1 (vehicle parking standards by up to 10%); 8.3.5.E.1 (vehicle parking design standards by up to 10%); 8.3.7.E.1 (bicycle parking standards by up to 10%); 8.4.2.E.1 (transition screen standards by up to 10%); 8.4.3.E.1 (frontage screen standards by up to 10%); 8.4.4.D.1 (site element screen standards by up to 10%); 8.4.5.E.1 (fence and wall standards by up to 10%); 8.4.6.E.1.a (retaining wall standards by up to 50% in House and Neighborhood form districts); 8.4.6.E.2.a (retaining wall standards by up to 10% in all other districts); 8.4.7.E.1 (plant and plant material standards by up to 10%); 8.5.1.E.1 (outdoor lighting standards by up to 10%).

³⁰ *Id.* § 9.5.2.A.2.

³¹ See *id.* §§ 3.4.3.E.2 (outdoor amenity space standards by up to 30%); 3.5.1.E.2 (amenity zone and pedestrian zone standards by up to 30%); 3.5.2.D.1 (front and side street yard landscaping standards by up to 30%); 3.8.1.E.2 (build-to-width standards by up to 30%); 3.10.2.E.2 (side wall height standards by up to 30%); 3.10.3.E.2 (building width standards by up to 30%); 3.11.E.2 (active depth standards by up to 30%); 3.12.1.E.2 (ground story height standards by up to 30%); 3.13.1.E.2 (glazing standards by up to 30%); 3.13.2.E.2 (blank wall width standards by up to 30%); 8.3.1.E.2.b

On paper, the administrative variance process offers some flexibility to developers of housing to deviate from some of the building and lot-related requirements included in the Draft Code. However, as is the case with variances, some of the most challenging types of building and lot-related requirements (including reductions to minimum lot sizes and increases in floor-to-area-ratio) are excluded from the administrative variance process.

Moreover, property owners seeking administrative variances are subject to criteria that are almost as difficult to satisfy as the criteria for traditional variances. Before issuing an administrative variance, the Director must find that: the proposal has a public purpose or the strict application of the rules is not necessary to satisfy the public purpose; the property owner would face “practical difficulties” in strictly adhering to the code; and the relief is the “minimum necessary to eliminate the practical difficulty.”³² It is unclear why a property owner should be required to satisfy these criteria merely to deviate from a landscaping requirement by 10% or to change a retaining wall height by a few inches.

But what is even more unclear is why the Draft Code would require this type of evaluation—and let only the Director conduct it, with no clear timelines within which any evaluation must be made. Making matters worse, there is an ambiguous provision that allows for “neighborhood planning units” to review and provide comments on administrative variations “if desired.”³³ The draft language is ambiguous as to who must “desire” their comments, how their comments will or must be incorporated into decision-making, whether they have the right to request a public hearing or meeting with the applicant (and further delay an approval), and within what timeline their comments must be delivered. Presumably, the intent is that the Director be able to refer a decision on an administrative variation to the neighborhood planning unit to obtain more public feedback. In practice (and putting aside the other problems with the administrative variance framework), this referral process will delay final decisions, confuse clear decision-making, and undermine the Director’s responsibility to apply their professional judgment to handle what should be a purely administrative matter.

Funneling all of these decisions through the Director, with a poorly-specified process to refer decisions for comment through the neighborhood planning units, could lead to bottlenecks for which applicants have no legal recourse. What’s more, with the ambiguous “practical difficulty” standard, decisions could differ depending on the Director, the applicant, or other factors—with some applications being approved, and others not. Without casting aspersions on past or current holders of the Director position, concentrating such power in a multi-step, high-stakes regulatory

(block/connectivity standards by up to 30% in non-historic and non-landmark districts); 8.3.2.E.2 (vehicle access standards by up to 30%); 8.3.3.E.2.a (pedestrian access standards by up to 30% where the Director determines compliance “impractical or unreasonable”); 8.3.3.E.2.b (pedestrian access standards by up to 30%); 8.3.4.E.2 (vehicle parking standards by up to 30%); 8.3.5.E.2 (vehicle parking design standards by up to 30%); 8.3.6.E.2 (vehicle use area standards by up to 30%); 8.3.7.E.2 (bicycle parking standards by up to 30%); 8.4.3.E.2 (frontage screen standards by up to 30%); 8.5.1.E.2 (outdoor lighting standards by up to 30%).

³² *Id.* §§ 9.5.5.A.–9.5.5.C. The Draft Code also requires that the relief not be requested for existing buildings that fail to satisfy zoning standards.

³³ *Id.* § 9.1.2.B.

process in the hands of a single person may open the door to corruption. Of course, it is difficult for any zoning code to safeguard against undue influence or bad actors. But the rigid, numerous requirements of the Draft Code and the barriers to receiving a traditional variance create perfect conditions for abuse of power.

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The overall impact of these procedural issues is significant. City officials will need to grapple with new and ill-defined requirements, which will increase development timelines. Property owners will need to hire lawyers to interpret the Draft Code and advocate for them at various stages in the process, adding to their costs. Housing developers who require flexibility in achieving their proposals will need to decide whether they will gamble on an approval process with uncertain outcomes or bear the new inflexibilities imposed by the traditional and administrative variance processes. They may decide it is too risky to proceed at all. All of these outcomes are detrimental to Atlanta, especially those seeking affordable and diverse housing options within its boundaries.

B. EXPANDING THE AVAILABILITY OF DIVERSE HOUSING OPTIONS

Local governments wishing to expand the availability of certain land uses will not only make processes more streamlined. They will also address the myriad substantive provisions that work together to facilitate or deter those uses. A city that desires a more robust housing supply will create a map clearly showing where new housing can be built, and will draft regulatory text that strips away practical barriers to housing construction.

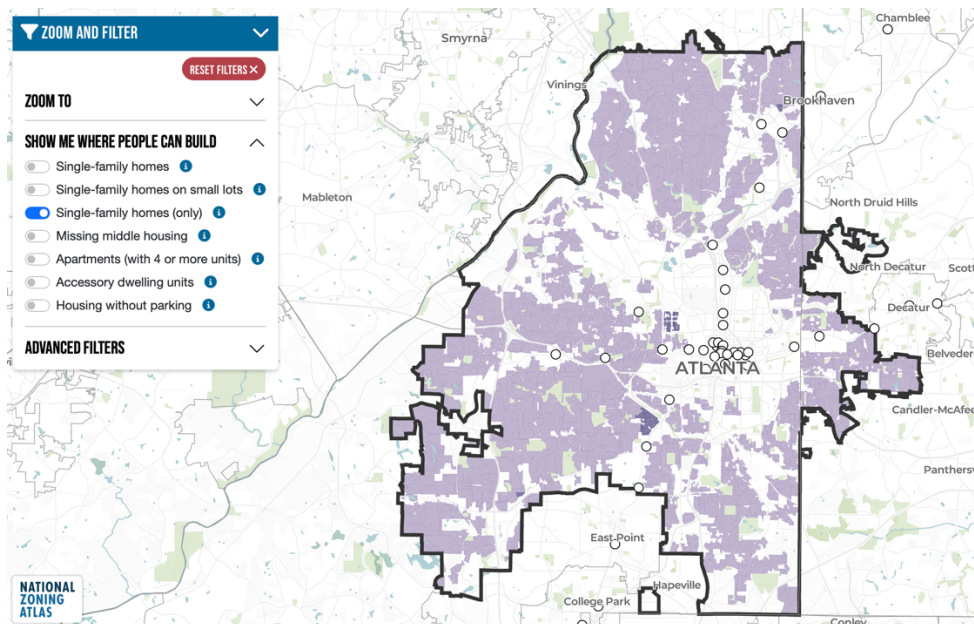
The Draft Code does none of these things. The drafters are explicit about their intentions, describing their approach as follows: “In most cases, these conversions [from current zoning districts to the Draft Code] are *one-to-one*. ... Additionally, all district conversions keep what can be built on a property largely unchanged. For example, lots that are currently zoned for only one dwelling unit will remain limited to one unit under ATL Zoning 2.0. Likewise, lots zoned for dense, mixed-use development will continue to allow those uses—even if they are developed at a lower density than allowed.”³⁴ This Subpart confirms the depth of the drafters’ commitment to maintaining Atlanta’s status quo. It covers the Draft Code’s treatment of single-family housing, multi-family housing, and accessory dwelling units, finding that single-family housing is by far the most privileged use.

1. SINGLE-FAMILY NEIGHBORHOOD FORTRESSES

The Draft Code largely freezes Atlanta’s single-family neighborhoods as they are today, locking out newcomers that might need more flexible and affordable housing options. The following image from the National Zoning Atlas shows (in purple) that 56% of land in the city is zoned to allow *only* single-family homes, and no other type of housing.³⁵

³⁴ Draft Code Zoning Map Webpage, *supra* (emphasis added).

³⁵ National Zoning Atlas, at www.zoningatlas.org/atlas.



In reviewing the Draft Code map against the National Zoning Atlas map, I *believe* the Draft Code map assigns virtually all the areas shown in purple above to one of twelve “form districts” that limit the number of dwelling units to a maximum of one: all six of the House-Scale districts (H1-H6), both Conservation Districts (CN1, CN2), and four of the Neighborhood-Scale districts (N1, N2A, N3A, N4A).³⁶

The Draft Code does more to “protect” these single-family neighborhoods than just limiting the number of units that can be built within them. It also institutes dimensional requirements that constrain the amount of land that can be put to productive use. Perhaps the most impactful such requirement is the minimum lot size. As discussed in Part II.C.2 below, the Draft Code roughly preserves all of the large minimum lot sizes offered by Atlanta’s current code—including lots sizes as large as two acres, one and a half times larger than a football field. Approximately a quarter of residentially-zoned land requires a quarter-acre or more for a single house to be built. These large minimum lot sizes do not only severely limit housing density: they also increase the price of housing by making it scarcer, while creating sprawling neighborhoods that require a car to access.

Other dimensional requirements serve as the “belt and suspenders” for residential exclusion. The floor-to-area ratio caps the amount of building square footage as a ratio to lot square footage, limiting the size of housing.³⁷ As noted in Part II.A.2, the Draft Code makes floor-to-area ratios (along with minimum lot sizes) absolute, as no deviations from them are permitted. The lot-coverage cap limits the amount of land upon which a building may be built.³⁸ It comes in as low as 25% of a lot in the Draft Code, meaning that new homes subject to the cap may be built on only a quarter of the lot.³⁹

³⁶ DRAFT CODE §§ 2.2.3.-2.2.10., 2.3.3., 2.3.4., 2.3.6., 2.3.8. & 3.3.1.

³⁷ *Id.* § 3.3.2.

³⁸ *Id.* § 3.4.1.

³⁹ *Id.* § 2.2.3.A.3 (25% lot coverage maximum for the House 1 form district).

Building setbacks, too, limit the buildable area of land by establishing distances from property lines within which nothing may be built.⁴⁰ Setbacks in the Draft Code run as high as sixty feet.⁴¹ And height caps limit the vertical dimension of new housing.⁴² The Draft Code typically limits single-family neighborhoods to 2.5 or 3 stories.⁴³

These (and other) regulatory requirements operate as independent ceilings or floors, measured on different dimensions. A project must independently comply with all of them simultaneously, and none overrides the other. How does this work in practice? If the property owner wishes to build a single-story building, the various requirements are straightforward. But when a developer builds at the maximum permitted height, the floor-to-area ratio will be distributed across all stories, forcing the footprint, and the developable area, to shrink well within the building envelope permitted by the Draft Code.⁴⁴ In an H1 form district, for example, a three-story structure at maximum floor-to-area ratio will keep approximately 92% of its two-acre lot non-developable, compared to 75% for a single-story build.⁴⁵ The same dynamic applies across the Neighborhood-Scale form districts where developments constructed to the maximum allowable height will trigger floor-to-area ratios that mean between 72%-80% of the lot area will remain undeveloped, compared to 30%-50% anticipated by the maximum coverage requirements.⁴⁶

Put more simply, the Draft Code deploys many control mechanisms to restrict development along different axes, operating in tandem to limit construction on any given parcel. The twelve single-family districts operate under a dwelling-unit cap that cannot be exceeded, minimum lot-size requirements that cannot be reduced, a permanent floor-to-area ratio ceiling that cannot be raised, and lot-coverage requirements that lock between 55% and 75% of every minimum lot out of productive use.⁴⁷ In a city where more than half of all land is governed by these single-family districts, the aggregate effect is to remove millions of square feet of land from the developable inventory, even where the market demands much more. This type of land allocation also segregates people on the basis of income because low-density zoning prices out households that cannot afford to bear the full cost of a single-family lot.

⁴⁰ *Id.* § 3.6.1.

⁴¹ *Id.* §§ 2.2.3.A.5, 2.2.4.A.5, 2.2.5.A.5 (60-foot front setback for the House 1 through House 3 form districts)

⁴² *Id.* § 3.10.1.

⁴³ *Id.* §§ 2.2.2 & 2.3.2 (showing ten single-family districts having a height cap of 2.5 or 3 stories, while the CN1 and CN2 districts are limited to “match existing” heights).

⁴⁴ *Id.* §§ 3.3.2, 3.10.1.

⁴⁵ *Id.* §§ 2.2.3, 3.3.2, 3.10.1.

⁴⁶ *Id.* §§ 2.3.3.-2.3.9.

⁴⁷ *Id.* §§ 2.2.3.-2.2.10., 3.3.1., 3.3.2., 9.6.1.A.2.b.; Atlanta, GA., Dep’t of City Plan., Parcel-Level GIS Data (2024) <https://dpcd-coaplangis.opendata.arcgis.com/datasets/official-zoning-overlay-open-data->.

2. MULTI-FAMILY HOUSING HAMPERED BY PROCEDURAL HURDLES AND SUBSTANTIVE REQUIREMENTS

Turning now to multi-family development, I want to first acknowledge that the Draft Code does allow multi-family housing to be permitted in many form districts, including: three districts allowing duplexes (N2B, N3B, and N4B), one district allowing up to six units (N5A), one district allowing up to 12 units (N5B), and several districts allowing an “unlimited” number of units (N6A, N6B, eight UG districts, four UC districts, three WX districts, and the Campus district).⁴⁸ While seemingly a large number of districts, together these districts occupy a much smaller area of land than the area where single-family housing is permitted.

Moreover, multi-family housing built within these districts is subject to an additional, unpredictable development review process and to onerous dimensional requirements that work together to limit the number of units that will be built. It also bears repeating that these caps are firm; as Part II.A.2 points out, no variance may be issued for an increase in the number of dwelling units that may be built.

From a process standpoint, multi-family housing at first glance *appears* to be permitted by right, wherever it is allowed.⁴⁹ However, the Draft Code enables the funneling of all projects exceeding two dwelling units to a development review committee.⁵⁰ These committees, which can be created “by authorizing resolution,” are empowered to receive applications, hold a public hearing on each application, and submit written comments to the Director of the Office of Zoning Development (the “Director”).⁵¹ The Draft Code states that the committee’s review “must be limited to the requirements of and compliance with the relevant zoning district.”⁵² This scope begs the question as to why the committee is needed at all, given that reviewing an application for compliance is typically the job of the person in the role of Director or their staff. If multi-family housing is truly permitted by right, these committees have no real role and should be eliminated lest appointed members’ time be wasted.

Timing of committee deliberations is another concern. The Draft Code does not specify the period within which the committee must hold its hearing, yet on the back end, the code provides the

⁴⁸ *Id.* §§ 2.3.2. Note that housing is banned in two commercial form districts and the I-2 (industrial) use district. *Id.* §§ 2.7.3 (Workplace 1 form district), 2.8.4 (Civic form district), 4.2.2.B (I-2 district).

⁴⁹ *Id.* §§ 4.2.1.A (defining “P” as “Use allowed”); 4.2.2.A-B (showing a “P” for “General household uses” for nearly every use district). The City’s planning department also characterizes the Draft Code as allowing “housing by-right in almost every use district except industrial and some institutional areas.” Atlanta, Ga., Dep’t of City Planning, Zoning 2.0 Questions: DCP Response 3 (May 1, 2026) (hereinafter “DCP Response”).

⁵⁰ DRAFT CODE § 9.4.2.B. Though the language is confusing, I believe that each zoning district will have its own committee, notwithstanding the fact that many zoning districts operate in many different neighborhoods and that there is an as-yet-unknown number of zoning string combinations. Note that because the N2B, N3B, and N4B districts only allow a maximum of two units, housing proposals in these districts do not fall under the development review committee’s purview.

⁵¹ *Id.* § 9.4.2.B.

⁵² *Id.* § 9.4.2.C.

committee thirty days after any hearing to submit a written recommendation to the Director. The Draft Code asserts that the committee's review "will not create undue delays in the processing of the application," yet implies that the Director must delay a decision on the application until the committee provides its written recommendation.⁵³

The extent to which the Director must take into account the committee's written comments is also uncertain. What happens, for example, if the committee provides written comments indicating a strong distaste for a housing application, even if the application complies with the Draft Code? From a political standpoint, it would be difficult for a Director to simply disregard such comments, even if the committee overstepped its regulatory scope. Thus requiring multi-family applications to undergo this review process may lead to delays, arbitrary decisions, and undue political influence.

From a substantive standpoint, the dimensional requirements discussed in Part II.B.1. for single-family housing have even more impact on multi-family housing. As noted in that discussion, each dimensional requirement operates independently, and compliance requires satisfying them all simultaneously. Here, the floor-to-area ratios and height caps play a significant role in constraining the number of housing units that can be built. In the N6 districts, for example, dwellings units are supposedly "unlimited," but construction is capped at 3 or 4 stories and floor-to-area ratio is just 1 or 1.75.⁵⁴ That means a small apartment building built with three stories on one of the small lots in the district (which has a minimum lot size of just 2,000 square feet) might have just three units. Certainly, the number of resulting units will not be "unlimited."

Similarly, the UG, UC, and WX districts highly constrain housing development. For example, the UG districts, which are "intended to accommodate a range of low-, moderate-, and higher-intensity buildings" in mixed-use neighborhoods, have no limit on the number of units that can be developed, but cap building heights (with caps as low as 3 stories) and set floor-to-area ratios as low as 1.⁵⁵ While the UG8, UG15, and UG25 districts have higher height caps (8, 15, and 25 stories respectively), their floor-to-area ratios are 3, 7, and 5 respectively, meaning that the buildings are functionally constrained to a volume far below those height caps. Multi-story construction in these districts forces more land to remain non-developable the taller a building becomes, and may result in irregularly designed public realms as buildings take different shapes and sizes to satisfy all of the competing criteria.

I can dissect many districts' limitations in detail; for example, the UC limits are looser, while the WX limits are tighter, than the UG limits. But my overall point is that to understand what the Draft Code really allows, one must account for all of the dimensional requirements—minimum lot sizes, floor-to-area ratios, height caps, and lot coverage caps among them. I am unsure whether the Draft Code's drafters have taken these requirements into account when estimating the code's potential for new housing. According to the Atlanta planning department, the Draft Code will "increase[] the number of housing units... by 51.2%," including more than 500,000 units on the commercial

⁵³ *Id.* § 9.4.2.D.

⁵⁴ *Id.* § 2.3.2.

⁵⁵ *Id.* §§ 2.4.1–2.4.2.

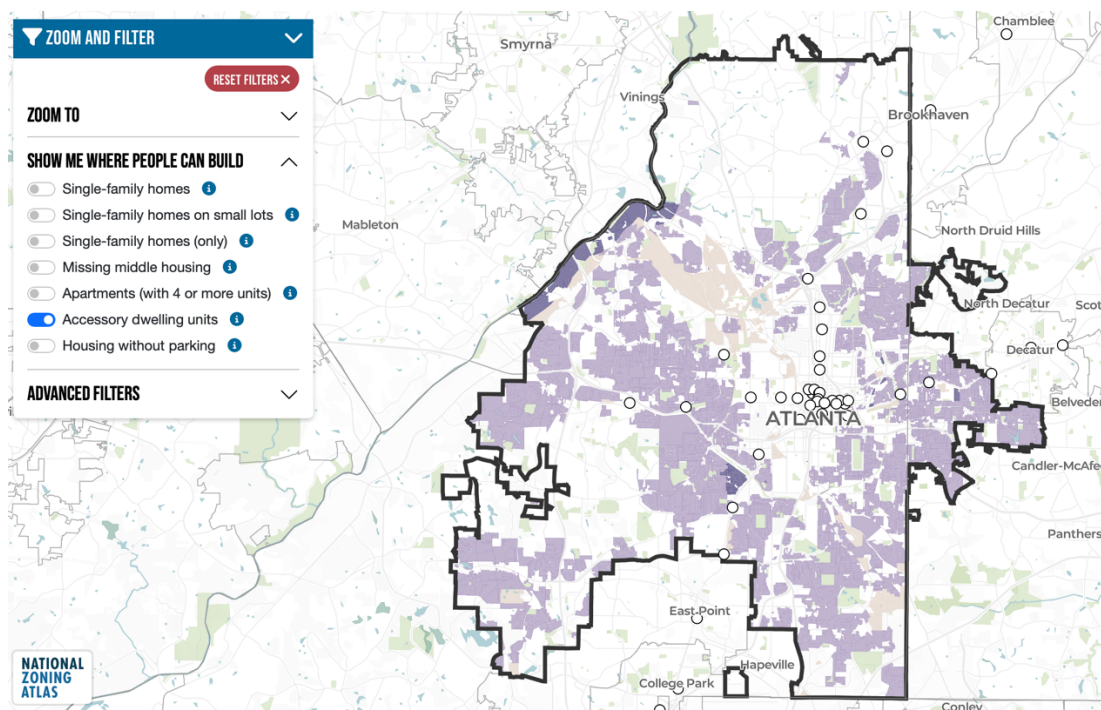
corridors (excluding Downtown and Midtown) alone.⁵⁶ To have calculated this number, the planning department would have had to generated building envelopes within which development could occur *for each parcel of land in the city* under the current code and then the Draft Code.

The National Zoning Atlas could conduct such an analysis at some point in the future. For now, admittedly all I have is my gut feeling that the Draft Code will physically cap multi-family housing at roughly the same levels as the current code. I base this feeling on the drafters' stated purpose of the Draft Code (i.e., to maintain the status quo), the Draft Code zoning map showing that multi-family housing can operate on only a fraction of the city's land, and my best guess as an architect as to what can physically be built given all the regulatory parameters.

3. UNCHANGED, RESTRICTIVE ACCESSORY DWELLING UNIT RULES

Single-family housing and multi-family housing are “principal” dwelling types. Accessory dwelling units (ADUs) are secondary, usually smaller, units that can be built on the same lot as principal uses. Many communities around the country, and even several states, have legalized accessory dwellings by right anywhere single-family housing is allowed.

Atlanta is not one of those places. As shown (in purple) by the following image from the National Zoning Atlas, the current zoning code allows ADUs on less than half of the land allowing single-family housing (around 41% of the city overall).



⁵⁶ DCP Response, *supra* at 2-3.

ADUs are not currently permitted in the wealthy, single-family-only northern neighborhoods (such as Buckhead); nor are they permitted in the southwestern neighborhoods of Adams Park or Cascade Heights. ADUs are also prohibited in many areas within the Beltline. The Draft Code zoning map maintains all of these prohibitions. The map assigns virtually all of the areas where ADUs are currently prohibited to the R-1 use district, which prohibits all ADUs.⁵⁷ In fact, the Draft Code appears to track nearly all of the current ADU allowances, including maintaining places where two ADUs are currently allowed (by assigning them to the R-3 and R-5 use districts) and creating the R-4 use district allowing up to four ADUs.⁵⁸ It does not even expand ADUs to denser residential districts, commercial districts, or industrial districts, prohibiting ADUs from the RX, CV, NX, MX, IX, and I districts. The Draft Code misses an opportunity to enable ADUs across zoning districts where people might be able to use them.

On a more positive note, the Draft Code modestly increases the maximum permitted size of ADUs from 750 square feet to 850 square feet.⁵⁹ The Draft Code also allows both attached and detached ADUs, which is an expansion from current rules.⁶⁰ And it does not have occupancy requirements (such as owner, family, or employee occupancy, or renter prohibitions), as we see in some jurisdictions.

The Draft Code includes another, non-ADU accessory dwelling arrangement, albeit a temporary one. It allows “accessory residential structures,” essentially detached guesthouses without kitchen facilities, in all R and RX use districts, including those (i.e., R-1 and all RX districts) that ban ADUs.⁶¹ Unlike ADUs, accessory residential structures are not designed for full-time living, and they cannot be used for stays of more than thirty days.

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Anyone who says that the Draft Code expands diverse housing options has either not read it or is obfuscating its effect. The Draft Code makes some modest improvements to Atlanta’s current zoning rules by consolidating requirements into clear graphics and by making minor adjustments to ADU requirements. But it fails to make any meaningful changes to the zoning map, locking single-family neighborhoods and ADU permissions into today’s exclusionary patterns. The Draft Code also makes multi-family housing hard to build, sending all proposals through a poorly-conceived development review process and imposing so many dimensional requirements that the potential to build such housing is significantly stunted.

⁵⁷ DRAFT CODE § 4.2.2.A.

⁵⁸ For example, the current R-4A, R-4, and R-5 districts allow two ADUs. See ATLANTA, GA., CODE §§ 16-06A.004(11), 16-06.004(12), 16-07.004(12).

⁵⁹ DRAFT CODE § 4.6.A.2.a.v.

⁶⁰ *Id.* § 4.6.A.2.a.

⁶¹ *Id.* § 4.6.2.B.

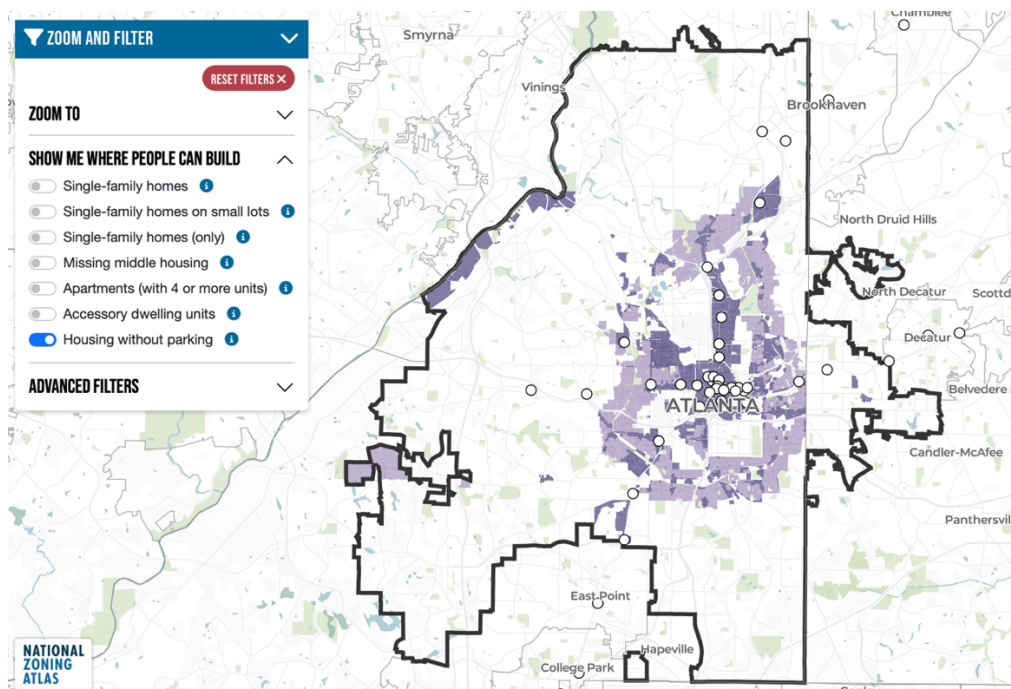
C. REDUCING THE COST OF CREATING NEW HOUSING

Zoning codes can increase or decrease the cost of land uses they regulate by pulling various regulatory levers. When it comes to housing, for example, zoning codes can increase cost by adding unnecessary procedures, delaying approval timelines, increasing substantive regulatory requirements, and limiting available land on which housing can be built.

And actually, this memo has already spoken to the ways in which the Draft Code does all of these things. Consider Parts II.A. and II.B. then, as incorporated into this Subpart by reference. Here, I will add some thoughts on parking mandates, minimum lot sizes, an affordable housing bonus, and a transit density bonus. Each of these might change the financial feasibility of housing projects in a significant way.⁶² Nor do

1. SUCCESSFUL ELIMINATION OF PARKING MANDATES

One of the best parts of the Draft Code is its elimination of residential parking mandates. This single change will significantly lower the cost of development while opening up more land to be used for housing, reducing private subsidies for car use, and reducing the amount of impervious surface in the city. The following map shows (in purple) where the current Code does *not* impose a residential parking mandate:



⁶² I do not cover regulatory issues that I believe to be somewhat minor in financial impact. Nor do I cover regulations that *are absent* from the Draft Code. As one example of the latter, in a memo to the mayor's office in May, the planning department indicated that the Draft Code saves on cost because it does not "impose minimum unit sizes." DCP Response, *supra* at 2. But I couldn't find any minimum-unit-size mandates in the current code. I do not count this as a cost savings.

The Draft Code goes further. It defines three parking zones (PZ1, PZ2, and PZ3) assigned to lots through a parking zone map.⁶³ The Draft Code eliminates nearly all parking mandates for residential uses in these zones, including for general household living above two units, live-work units, purpose-built student housing, and all group living uses.⁶⁴ The Draft Code imposes a residential minimum parking mandate in only one circumstance: one space per dwelling unit for general household living with one or two dwelling units located in House-Scale or Neighborhood-Scale Form Districts and assigned to PZ3.⁶⁵ I am unsure why this carve-out would have been created, especially as the Atlanta planning department has explained that this mandate “effectively only applies in larger lot single-unit houses. These lots are highly likely to provide parking and can still use any adjacent on-street spaces to satisfy the requirement.”⁶⁶

In addition, the Draft Code exempts buildings built before 1965 from all minimum parking requirements, unless they house certain larger establishments with an alcohol license.⁶⁷ This provision could help lower costs for mixed-use rehabilitations that include residential and nonresidential uses. The Draft Code also provides a blanket parking reduction for lots located near transit.⁶⁸ Thus, a lot within one-half mile walking distance of a high-capacity transit station lot or entry may apply the parking requirements of PZ1 to that lot regardless of its assigned parking zone designation.⁶⁹ Because PZ1 does not carry a minimum parking requirement for any residential use or commercial uses, this provision effectively eliminates parking minimums for transit-proximate lots that would otherwise be subject to PZ2 or PZ3 requirements.⁷⁰

The Draft Code’s approach to residential parking mandates should be commended as a beneficial expansion of current zones without residential parking mandates.

2. STUBBORN, EXPENSIVE MINIMUM LOT SIZE MANDATES

Unlike the Draft Code’s sound approach to parking mandates, its approach to minimum lot sizes is very problematic. The Draft Code fails to make any significant changes to current minimum lot-size mandates, which among other things ensure the city’s large-lot, single-family neighborhoods remain fortresses, locking newcomers out.⁷¹ Large minimum lot sizes have been shown to raise home sales prices and rents, primarily by requiring developers and buyers to acquire larger parcels than a small, affordable home actually needs, to create sprawl, and to facilitate segregation.⁷²

⁶³ DRAFT CODE § 8.3.4.C.a.

⁶⁴ *Id.* § 8.3.4.C.g.

⁶⁵ *Id.* § 8.3.4.C.g.

⁶⁶ DCP Response, *supra* at 2.

⁶⁷ DRAFT CODE § 8.3.4.B.3. If a use in a pre-1965 building has an alcohol license and exceeds 1,200 square feet of floor area, that use will be subject to the minimum parking requirement.

⁶⁸ *Id.* § 8.3.4.C.

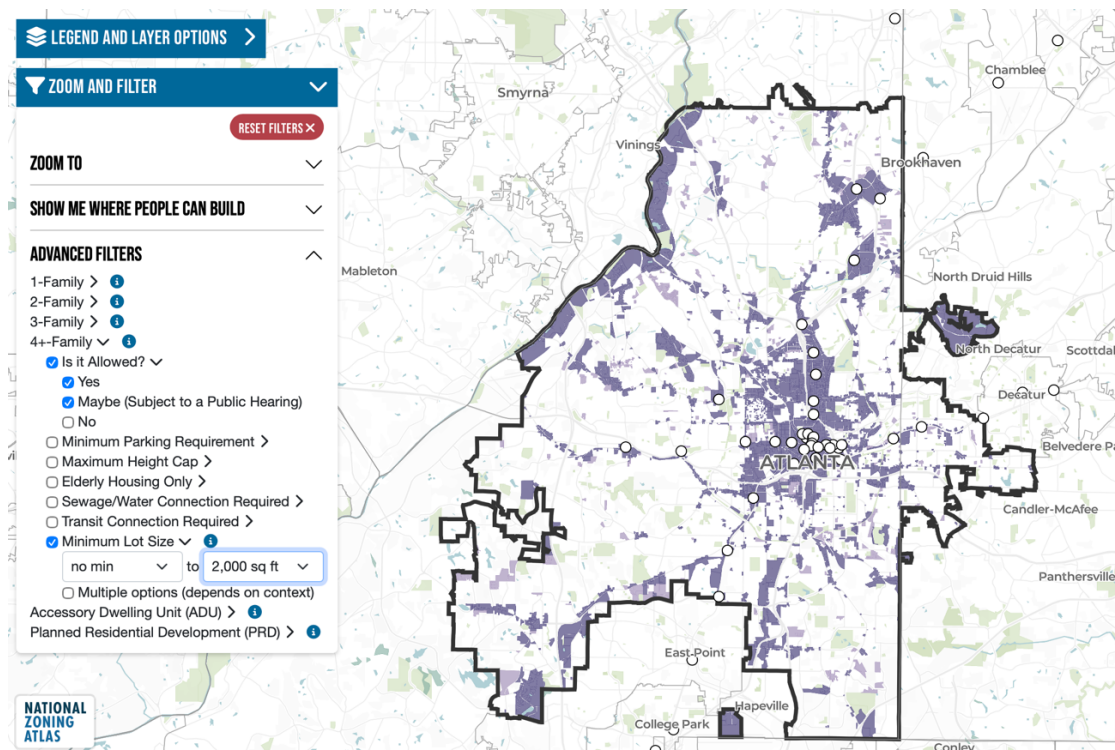
⁶⁹ *Id.* § 8.3.4.C.

⁷⁰ *Id.* §§ 8.3.4.B.3, 8.3.4.C.g.

⁷¹ See Part II.B.1

⁷² Joseph Gyourko & Raven Molloy, *Regulation and Housing Supply* 6 (Nat’l Bureau of Econ. Rsch., Working Paper No. 20536, 2014), <https://www.nber.org/papers/w20536>; Edward L. Glaeser & Joseph Gyourko, *The Impact of Zoning*

The Draft Code did not have to maintain the same lot-size mandates as exist today. One proposal from the City’s office of the chief housing officer suggested that lot-size mandates be set as low as 2,000 square feet to enable subdivision and housing development.⁷³ As shown (in purple) in the below image from the National Zoning Atlas, Atlanta already zones 22% of its four-or-more-family housing land for a lot-size mandate of between zero and 2,000 square feet. (The map for single-family housing with such lot size ranges adds a bit more land to the totals.) It is significant that the map mostly shows dark purple areas satisfying the criteria; that color symbolizes mixed-use areas where both residential and nonresidential uses are allowed.



The Draft Code does not propose relaxing lot sizes further. Instead, it assigns Atlanta’s single-family neighborhoods to House-Scale and Conservation form districts, with lot sizes ranging between 9,000 square feet and two acres.⁷⁴ It assigns the city’s modestly denser districts to Neighborhood-Scale districts, seven of which have lot-size mandates between 2,800 and 7,000 square feet.⁷⁵ Each

on *Housing Affordability* 2–6 (Nat’l Bureau of Econ. Rsch., Working Paper No. 8835, 2002), <https://www.nber.org/papers/w8835>; Jonathan Rothwell & Douglas S. Massey, *The Effect of Density Zoning on Racial Segregation in U.S. Urban Areas* 44 Urb. Aff. Rev. 779, 801 (2009), <https://journals.sagepub.com/doi/10.1177/1078087409334163>.

⁷³ Office of the Chief Housing Officer, City of Atlanta, *Zoning 2.0 Analysis and Recommendations*, Recommendation 6 (Jan. 23, 2026).

⁷⁴ The House-Scale districts impose minimum lot sizes ranging from 2 acres in H1, to 1 acre in H2, 30,000 square feet in H3, 28,000 square feet in H4, 18,000 square feet in H5, 13,500 square feet in both H6 and CN1, and 9,000 square feet in CN2. DRAFT CODE §§ 2.2.3.–2.2.10.

⁷⁵ N1 requires a minimum of 9,000 square feet; N2A and N2B require 7,500 square feet; N3A and N3B require 5,000 square feet; and N4A and N4B require 2,800 square feet. *Id.* §§ 2.3.3.–2.3.9.

of the House-Scale and most of the Neighborhood-Scale districts are limited to one dwelling unit per lot, compounding the restrictive effect of the high minimum lot size requirements.⁷⁶

In a few districts, the Draft Code imposes lot sizes of 2,000 square feet or even lower. It requires four districts (N5A, N5B, N6A, and N6B) that already permit relatively higher density to have lot sizes of 2,000 square feet.⁷⁷ But these only total 1,272 acres (of zoned acres, as calculated by the National Zoning Atlas, totaling 68,846 acres citywide).⁷⁸ Virtually all of the mixed-use form districts have no residential minimum lot size mandates, including: the Urban Core (UC1 through UC4), Workplace Flex (WX5 and WX15), Workplace (W1), Campus (CM), and Park (PK) districts.⁷⁹ Though I have not completed a lot-by-lot analysis, these low or no-minimum-lot-size requirements *seem* to fall largely in the areas shown in the above image—places where lot sizes of 2,000 square feet or lower already exist. If my read of the map is correct, then the Draft Code has done virtually nothing to address the city’s large minimum lot sizes or the exclusionary outcomes that such lot sizes bring.

The Draft Code has one additional provision worth noting: the novel concept of the “sublot,” available in form districts that allow more than one dwelling unit per lot.⁸⁰ At first glance, one might believe that the sublot creates flexibility on minimum lot size.⁸¹ But I am not sure this Draft Code has articulated this concept in a manner that would achieve that purpose. The Draft Code defines a sublot as “a parcel of land, existing with other sublots on a lot, *intended for the purpose of transfer of ownership or for development*.”⁸² I do not understand how the emphasized words distinguish a sublot from a lot defined in the city’s subdivision ordinance.⁸³

Adding to my confusion, a communication from the planning department to the Mayor’s office indicated that sublots allow “for owner-occupied fee simple attached and detached housing.”⁸⁴ But I do not see a relevant provision regarding owner occupancy in the Draft Code, nor do I see language that would clearly limit the application of side setbacks to housing on the sublots (thus enabling attached housing). The communication from the planning department went on to state that the sublot “effectively eliminates minimum lot sizes in most districts that allow residential uses and results in a lower land basis per unit and greater flexibility.”⁸⁵ I do not understand this statement, because I do not see language in the draft authorizing the creation of sublots or clearly stating that the creation of the sublot does not illegally circumvent the Draft Code’s other prohibitions on increasing the number of dwelling units on a lot.

⁷⁶ *Id.* §§ 2.2.3.–2.3.7.

⁷⁷ *Id.* §§ 2.3.10.–2.3.13.

⁷⁸ DCP Response, *supra* at 2.

⁷⁹ DRAFT CODE §§ 2.5.3.–2.5.6., 2.6.3.–2.6.4., 2.7.3., 2.8.3., 2.8.5.

⁸⁰ *Id.* § 10.1.11.D.1.b.

⁸¹ A local advocacy group’s proposal, for example, specifically called for the City to allow residential single-family lot splits to enable incremental, lower-cost development and expand pathways to attainable homeownership. HouseATL, Letter to Mayor Dickens re: Zoning 2.0 Recommendations 3 (May 1, 2026) (hereinafter “HouseATL Letter”).

⁸² DRAFT CODE § 10.1.11.D.1.a (emphasis added).

⁸³ ATLANTA, GA., CODE § 15-06.001(v) (defining “lot” to mean a “parcel of land, designed to be used for the development of a one-or-two-family dwelling, or an amenity area”).

⁸⁴ DCP Response, *supra* at 2.

⁸⁵ *Id.*

Finally, I do not understand how the zoning code can be used as a vehicle for subdivision regulation when the City has a stand-alone ordinance on subdivision, enacted pursuant to the state subdivision enabling act.⁸⁶ While a full review of the city’s subdivision ordinance is outside of the scope of this memo, I wonder whether the subplot concept is legally viable—and, even if it is, whether the Draft Code’s subplot provisions will achieve the planning department’s stated purpose for them.

The Draft Code’s approach to minimum lot-size mandates maintains the regulatory status quo, keeping each neighborhood basically as is. Even the Draft Code’s attempt to create a novel tool (the subplot) might fall short without more careful drafting. From a cost standpoint, the failure of the Draft Code to make progress in reducing or eliminating minimum lot size mandates means high prices will endure—and current residential settlement patterns will, too.

3. BONUSES WITH MIXED EFFECTS

In this last section, I touch on two “bonus” programs relevant to housing: the affordable housing bonus and the transit-oriented development bonus. Both programs allow for greater density than the Draft Code would allow when the property owner satisfies certain conditions. The greater density these programs offer may help a housing developer produce more units of housing more cost-efficiently. Savings they receive, and the housing and/or amenities they offer, will ultimately benefit the people who need housing. Still, these programs would benefit from more careful articulation to ensure that they have their intended effect.

Starting with the affordable housing bonus, the Draft Code allows a developer to earn additional floor area above the base floor-to-area ratio permitted by the zoning district by providing affordable housing units within the project.⁸⁷ The bonus is available only in zoning districts that carry both a base and a bonus floor-to-area ratio, and thus includes the Urban General and Urban Core districts, but excludes most of the low-density residential neighborhoods.⁸⁸ The bonus applies up to the maximum bonus floor-to-area ratio designated for the applicable zoning district, and a project may not exceed that ceiling via development bonuses.⁸⁹

A project can qualify for the bonus by setting aside either 10% of the bonus floor area as affordable at 60% of the area median income, or 15% of the bonus floor area as affordable at 80% of the area median income.⁹⁰ The units have to meet certain criteria with respect to finishes and unit mix, remain affordable for around twenty years, and be subject to a restrictive covenant.⁹¹ A project can

⁸⁶ ATLANTA, GA., CODE pt. 15.

⁸⁷ DRAFT CODE § 8.2.2.C.1.

⁸⁸ *Id.* § 8.2.1.B. The bonus program is limited to the eight Urban General districts (UG3A, UG3B, UG5A, UG5B, UG8A, UG8B, UG15, and UG25) and the four Urban Core districts (UC1, UC2, UC3, and UC4). *Id.* §§ 2.4.2, 2.5.2. It excludes House-Scale, Conservation, and Neighborhood-Scale districts. *Id.* §§ 2.2.1–2.2.10, 2.3.1–2.3.13. It also excludes historic, landmark, and legacy districts. *Id.* § 8.2.1.A.3.

⁸⁹ *Id.* § 8.2.1.C.a.

⁹⁰ *Id.* § 8.2.2.C.2.

⁹¹ *See id.* §§ 8.2.2.C.4–8.2.2.C.7 (fully articulating these requirements).

also qualify for the bonus if the applicant pays a fee in lieu of constructing affordable units on site.⁹² The in-lieu fee election extinguishes all four on-site obligations.⁹³ Fees collected are deposited into a trust fund dedicated to the production and preservation of affordable housing, and in-lieu fees are a public record.

From a public-benefits standpoint, it is unclear whether this program will actually facilitate the creation of affordable housing. I understand that Atlanta's current zoning code, which offers bonuses in certain districts for the provision of affordable housing between 60% and 80% of area median income⁹⁴, often sees use of the fee in lieu of housing, rather than the creation of on-site affordable units. A thorough analysis of whether current code provisions have resulted in a meaningful number of new housing units would be prudent before taking some of the same elements that exist in the current code and recodified them in a new code.

On the other side of the equation is the developer. I cannot say for sure whether this program will result in cost savings to a housing developer. But the bonus program gives developers the opportunity to evaluate whether the financial benefits of participating in the program outweigh its costs. Some greater specificity as to this program might be in order. The fee is calculated using a construction-replacement-cost methodology set equal to the approximate cost of constructing the affordable units that were not built on site.⁹⁵ The Draft Code does not specify whether that cost is measured at the project's location or on a citywide average basis, does not require adjustment for the income foregone by renting units at sixty or eighty percent of the area median income over the twenty-year restriction period, and does not provide for recalculation of the fee between the date of permit issuance and the date of certificate of occupancy.⁹⁶ Moreover, the obligation is calculated on the bonus floor area only, not on the project's base floor area, because the Draft Code expresses the affordability requirement as a percentage of the bonus floor area alone.⁹⁷

The Draft Code's transit-oriented development bonus works differently. It is intended "to create opportunities for applicants in the City to reduce the parking footprint of development near transit stations in exchange for increased density."⁹⁸ The Draft Code permits a project located within a one-half mile walking distance of a high-capacity transit station parking lot or entry to increase its floor-to-area ratio by 50% up to the maximum bonus floor-to-area ratio permitted by the applicable zoning district.⁹⁹ A project may not exceed the maximum bonus floor-to-area ratio for the zoning district even if it qualifies for multiple development bonuses simultaneously.¹⁰⁰ (If you want to know

⁹² *Id.* § 8.2.2.C.9. The fee is recalculated annually to reflect current market conditions; rates are published on the City of Atlanta Department of City Planning website no later than June 1 of each year and take effect July 1 of the same year. The fee, together with administrative costs, is calculated based on the approximate cost of constructing the affordable workforce housing units that were not built on site.

⁹³ *Id.* § 8.2.2.C.9.

⁹⁴ See, e.g., ATLANTA, GA., CODE chs. 34 (mixed residential commercial district), 36A (Beltline), 37 (Westside), 41 (Northwest). See also §§ 16-18R.008 (Mechanicsville), 16-18S.019 (Vine City).

⁹⁵ DRAFT CODE § 8.2.2.C.9.

⁹⁶ *Id.* § 8.2.2.C.9.

⁹⁷ *Id.* §§ 8.2.2.C.2, .9.

⁹⁸ *Id.* § 8.2.6.A.

⁹⁹ *Id.* §§ 8.2.6.B.2, 8.2.6.C.1.

¹⁰⁰ *Id.* § 8.2.1.C.a.

where these high-capacity transit stations are, we show them on the National Zoning Atlas, in a toggle-able layer that we call “Transit Stations.”)

To receive the transit-oriented development bonus, a project must satisfy one of two alternative parking conditions.¹⁰¹ It must allocate at least 50% percent of its on-site parking for use by the general public, and that parking may be considered publicly accessible regardless of whether a fee is charged.¹⁰² Or it must provide no more than 10% of the maximum allowed parking on site, excluding spaces required by the Americans with Disabilities Act.¹⁰³ Developments can apparently receive the bonus if they simply provide no (or minimal) parking on site. This generous bonus rewards developers that *do not spend money*. This incentive will almost certainly result in greater density around transit stations than the status quo. But the design of the bonus begs the question as to why the greater density is not simply written into the Draft Code as a base district, rather than requiring a property owner to jump through hoops to satisfy an almost-absurdly low threshold.

People seeking additional provisions that promote density around transit or that encourage diverse transportation options may be disappointed. The transit-oriented development bonus is the only incentive in the Draft Code referencing transit station location, walking distance to transit, or transit-related parking reductions as eligibility conditions.¹⁰⁴

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When it comes to reducing the cost of creating new housing, the Draft Code is a very mixed bag. Prior Subparts noted how onerous processes and substantive requirements may add costs, including by causing delays. (After all, time is money.) This Subpart pointed out a very significant cost-saving measure in the Draft Code—its elimination of nearly all residential parking mandates—while also underscoring that its adherence to existing minimum lot sizes will keep prices high or make them higher. This Subpart also considered two bonus programs: one with uncertain prospects of being used by developers, and the other almost certainly to be used with vigor. The Draft Code can make both of these programs, and indeed all of its provisions, so much stronger, clearer, and better.

My analysis in this Part covers just a fraction of the many issues with the Draft Code. The draft also has numerous instances of anachronistic, contradictory, repetitive, and anti-housing language. Due to time constraints, I was unable to conduct a line-by-line review of the Draft Code, but I did briefly annotate Chapters 1 and 9, which set forth foundational principles relevant to the operation of the regulatory framework. In the Appendix, I relay my comments about concerning specific provisions of these two Chapters.

As I conclude this Part, I want to explicitly acknowledge that, given the complexities of the current code and the Draft Code, this memo may include minor factual errors. For example, in this memo, I say I could not find a particular provision in the codes; I say I “believe” certain things to be true

¹⁰¹ *Id.* § 8.2.6.C.3.

¹⁰² *Id.* § 8.2.6.C.3.a.

¹⁰³ *Id.* § 8.2.6.C.3.b.

¹⁰⁴ *Id.* §§ 8.2.2-8.2.5.

about the Draft Code zoning map; I reference a “gut-feeling”; and I make interpretations about Draft Code text based on its plain language. I apologize if I missed gap-filling information buried somewhere I would have never thought to look. But my inability to find certain information may be extra evidence that something may be amiss with the codes themselves.

Next, Part III next turns to recommendations based on my overall diagnosis.

III. RECOMMENDATIONS

A focus on the technical details should not obscure the core point of my exercise: to understand whether the Draft Code promotes economic mobility through its approach to housing. This exercise matters because for all their arcana, zoning codes influence the trajectories of the lives of people subjected to them. Those people include the five, hard-working Atlanta families documented in Brian Goldstone’s *There is No Place for Us*.¹⁰⁵ That these families cannot access or maintain stable housing reflects policy failures at multiple levels of government. Zoning is one policy failure that can be addressed—but only if there is political will.

This Part urges local decision-makers in Atlanta to develop the political will to forge a zoning code that gives every Atlantan the opportunities they need in order to thrive. I cannot assess to what extent local decision-makers will want to take on one, several, most, all, or any of these suggestions. My task is only to offer recommendations corresponding to the three economic mobility strategies evaluated in Part II. Each recommendation is derived from a specific deficiency in the Draft Code and is designed to bring the Draft Code into closer alignment with Atlanta’s stated goals of promoting upward economic mobility through housing creation.

A. STREAMLINING THE ENTITLEMENT PROCESS

The following recommendations may assist with streamlining the entitlement process.

1. DRAMATICALLY REDUCE THE LENGTH OF THE DRAFT CODE

The Draft Code, at 981 pages, exceeds the current code’s already-excessive 852 pages. Keeping in mind that even Chicago and Philadelphia have sub-300-page codes, the Draft Code should be at most 500 pages.

Three chapters in need of a significant page-count reduction are Chapters 5, 6, and 7, which set forth overlay districts, historic districts (multiple types), and legacy districts. In a forthcoming law review article, I propose that, for clarity and administrability, localities should eliminate overlay districts altogether, and I would recommend the same for Atlanta.¹⁰⁶ In the historic districts chapter, editing, distilling, and consolidating are needed. The concept of a “legacy” district should be rethought and probably abandoned: either the City has an up-to-date, comprehensive, coherent zoning code or it does not. In addition, certain dimensional and building-design standards should be consolidated, including universal minimum window glazing requirements, blank wall bans, street-facing entry requirements, tree requirements, and bans on parking between the building and the street, among other things.

¹⁰⁵ BRIAN GOLDSTONE, *THERE IS NO PLACE FOR US: WORKING AND HOMELESS IN AMERICA* (2026).

¹⁰⁶ See Sara C. Bronin, *Simplifying and Modernizing Zoning*, J. L., ECON. & POL’Y (forthcoming 2026).

2. CONSOLIDATE ZONE STRINGS

The novel “zone string” system should be significantly consolidated to produce a fixed, legible set of zoning district equivalents, fully reflected in a published map legend. At a minimum, all nine of the House-Scale form districts should be consolidated to maybe two: one district requiring only the most modest minimum lot size mandate (such as the 2,000 lot size mandate) and one authorizing cluster development. All eleven of the Neighborhood-Scale form districts should be consolidated into one district. The eight Urban General districts should be consolidated into three, drawing from categories set forth in the Draft Code¹⁰⁷: one district up to 6 stories, another up to 15 stories, and another up to 30 stories.

3. REFORM THE VARIANCE PROCESS

Atlanta has broad discretion to adopt flexible, permissive variance criteria; the Draft Code should take full advantage of that latitude. The hardship test (extraordinary conditions, peculiarity, unnecessary hardship, no substantial detriment) in the Draft Code should be replaced with a balancing standard that weighs the public benefit of the proposed deviation against any harm. The absolute prohibition on use variances for housing should be eliminated, or at minimum, lifted as applied to residential uses, so that housing developers may seek relief to add dwelling units above the as-of-right limit on the basis of public benefit. The Draft Code should affirmatively permit variances for minimum lot size reductions and (if floor-to-area ratios are maintained) also to floor-to-area ratio increases. Neither prohibition appears in the current code, and neither prohibition is required by state law.

The variance criteria should be modified to allow the Board of Zoning Appeals to consider whether the applicant is providing a community benefit (e.g., affordable housing), not just property-specific hardship.

4. REFORM THE ADMINISTRATIVE VARIANCE PROCESSES

Administrative variance decisions (modifications and variations) should be delegable to qualified planning staff for minor and by-right deviations (e.g., 10% of landscaping or retaining wall) rather than reserved exclusively to the Director. The Draft Code should establish mandatory decision timelines so that administrative variance applications do not languish without resolution. The “practical difficulty” standard for administrative variances should be replaced with an objective, by-right, checklist-based threshold for minor deviations to eliminate discretionary decision-making and limit exposure to inconsistent or corrupt outcomes.

Neighborhood planning units should be eliminated or at least not involved in any way in determining administrative variations.

¹⁰⁷ DRAFT CODE § 2.4.2.

5. ELIMINATE THE DEVELOPMENT REVIEW COMMITTEE FOR MULTI-FAMILY HOUSING

The development review committee process for all projects exceeding two dwelling units should be eliminated. The proposed scope overlaps with that of the Director, and the existence of such a committee will lead to needless political battles and legal liability.

B. EXPANDING THE AVAILABILITY OF DIVERSE HOUSING OPTIONS

The following recommendations may assist with expanding the availability of diverse housing options.

1. REMAP SINGLE-FAMILY NEIGHBORHOODS TO ALLOW GREATER DENSITY

The Draft Code’s “one-to-one”¹⁰⁸ conversion approach, by which current single-family districts are mapped onto new single-family form districts with no increases in allowed density, should be abandoned in favor of a remapping that opens more land to multi-family uses. Atlanta should consider following the approach of peer cities like Charlotte and Durham, which have effectively eliminated exclusive single-family zoning.

2. RECALIBRATE DIMENSIONAL REQUIREMENTS FOR MULTI-FAMILY HOMES

All of the dimensional requirements should be reviewed and produced in 3D so that decision-makers can understand how multi-family buildings subject to these requirements will be built. At a minimum, floor-to-area ratios (an antiquated way to curb density) should be eliminated for multi-family housing to ensure that the theoretical density allowances (e.g., “unlimited” units) are more achievable in practice.

3. EXPAND ADU PERMISSIONS

ADUs should be permitted by right where they are currently prohibited (in the R-1, RX, CV, NX, MX, IX, and I districts), regardless of overlay, historic, or legacy status. This approach is consistent with the approach of peer cities like Austin, Charlotte, Durham, Jacksonville, Raleigh, and Richmond.

In addition, a minimum of one ADU unit should be allowed as an accessory use to any single-family land and to any commercial use (commonly called a caretakers’ unit, shopkeepers’ quarters, or night watchman’s unit). The ADU size cap should be raised beyond the Draft Code’s proposed 850 square

¹⁰⁸ Draft Code Zoning Map Webpage, *supra*.

feet to at least 1,000 square feet (though more is better) to allow for more functional, permanently habitable units.¹⁰⁹

4. CREATE A YES-IN-GOD’S-BACKYARD PERMITTING PATHWAY

Enabling the city’s many religious institutions to construct by-right multi-family housing can create new housing in all neighborhoods in the city, enable religious institutions to fulfill their charitable purposes, and provide the opportunity for such institutions to generate revenues that would enable them to maintain and rehabilitate their worship facilities, minister to the poor, and conduct other religious and charitable activities.¹¹⁰ The Draft Code should create an administrative process by which religious institutions could prove ownership of a parcel and then, after proof, request that the City apply one of several multi-family housing permitting regimes already allowed in the Draft Code to their parcel.

5. REVERSE THE EXCLUSIONARY DEFINITION OF HOUSEHOLD

In zoning codes across the country, a definition of “family” or “household” is used to limit who can live in a single dwelling unit.¹¹¹ The narrower the definition of family, the harder it is for people with diverse family structures (including immigrant families) or people who have “functional” or chosen families to find adequate housing. The current code allows six unrelated people to live together, along with an unlimited number of “domestic servants” and up to four boarders.¹¹² The Draft Code limits the number of unrelated people to four people related by blood, marriage, adoption, or legal guardianship.¹¹³

The Draft Code should, at a minimum, revert to the current code definition. Additional options may be considered.

¹⁰⁹ This increase in ADU square footage was recommended by local advocacy group HouseATL. See HouseATL Letter, *supra*.

¹¹⁰ YIGBY legislation is increasingly being considered by local and state jurisdictions. See, e.g., Faith-Based Affordable Housing Act, S. 3397-B, 2025–2026 Reg. Sess. (N.Y. 2025) (proposed N.Y. Gen. Mun. Law § 96-C).

¹¹¹ See Sara C. Bronin, *Zoning for Families*, 95 INDIANA L.J. 1 (2020).

¹¹² ATLANTA, GA., CODE § 16-29-001(10)(b) (“One or more persons occupying a single dwelling or lodging unit, provided that, unless all members are related by blood, marriage or adoption, no such family shall contain over six persons, with the following exceptions. Domestic servants employed on the premises may be housed on the premises without being counted as a family. In a dwelling unit, not more than two rooms not containing independent kitchen facilities may be occupied by a total of four or less roomers who may also board with the family. Four or less boarders, including but not necessarily restricted to roomers on the premises, may be accommodated for compensation for any period, including daily, weekly or monthly periods.”).

¹¹³ DRAFT CODE § 4.4.1. The Draft Code also says that all related persons count as one person for the purposes of this definition.

6. RE-LEGALIZE BOARDERS

As noted above, Atlanta's current code allows for a dwelling unit to include not only a family, but also up to four boarders.¹¹⁴ I could not find where the Draft Code addresses boarders. If the Draft Code effectively bans them by omitting reference to them, boarders currently living in Atlanta may find themselves in legal limbo, at risk of being fined or evicted from their living quarters. Moreover, households that currently rely on income from boarders may no longer be able to make ends meet. At a minimum, this policy change should be given a thorough public discussion before being allowed to proceed.

7. ENABLE ALL NEIGHBORHOODS TO WELCOME NEW HOUSING

While as noted above, I have been unable to precisely map housing allowances across all districts (especially those districts mentioned in Chapters 5, 6, and 7), the Draft Code appears to exempt wide swaths of the city from the perceived burden of welcoming more neighbors. As a historic preservationist, I am optimistic that the city's historic districts, in particular, can be an appropriate place for new housing.

8. GROUND-TRUTH HOUSING PRODUCTION OUTCOMES

Accompanying the next draft of the Draft Code should be an independent analysis of its capacity for housing construction that accounts for the combined effect of all dimensional requirements, so that the City's 500,000-unit (51.2%) housing increase projection can be verified.

C. REDUCING THE COST OF CREATING NEW HOUSING

The following recommendations may assist with reducing the cost of creating new housing.

1. ELIMINATE MORE PARKING MANDATES

The Draft Code's approach to residential parking mandates should be preserved in the next draft. The single remaining residential parking mandate (i.e., one space per unit for one- or two-family homes in PZ3 House-Scale and Neighborhood-Scale districts) should be eliminated, given the Atlanta planning department's acknowledgement that it is largely superfluous in practice.

The elimination of nonresidential-use parking mandates should be considered and adopted, for the same policy reasons as justify the elimination of residential parking mandates.

¹¹⁴ ATLANTA, GA., CODE § 16-29-001(10)(b).

2. REDUCE OR ELIMINATE MINIMUM LOT SIZE MANDATES

The Draft Code should reduce or eliminate minimum lot size mandates in single-family districts, which increase housing costs and perpetuate exclusion by raising the price of land per home. The City's Chief Housing Officer and local advocates have suggested a 2,000 square foot maximum minimum lot size mandate. The Draft Code should adopt this recommendation, where such mandates are required at all.

The "sublot" concept should be clarified and vetted for consistency with the City's subdivision ordinance and state statutory authorities. Better yet, if minimum lot size mandates are reduced or eliminated as recommended here, the sublot concept (and the confusion it may cause) can safely be eliminated from the next draft.

3. EXPAND AND CLARIFY THE AFFORDABLE HOUSING BONUS PROGRAM

Someone needs to look *very closely* at the affordable housing bonus programs in the current code, including the effectiveness of the fee-in-lieu provisions, before the City includes such a program in the Draft Code. Any affordable housing bonus offered by the Draft Code should be extended beyond the UG and UC districts to include any districts or parcels permitting multi-family housing. If the City maintains the current program structure, the affordability obligation should be calculated on the project's total floor area, not just the bonus floor area, to ensure the program generates meaningful affordable unit commitments. And the Draft Code should consider adding points for the affordable housing bonus to lots in transit-oriented development districts (see below).

4. REPLACE THE TRANSIT-ORIENTED DEVELOPMENT BONUS WITH A TRANSIT-ORIENTED DEVELOPMENT BASE DISTRICT

The transit-oriented development bonus is so permissive as to potentially be meaningless. A better, clearer, and more administratively-efficient option would be for the City to rezone all areas within a half mile of a high-capacity transit stop to a transit-oriented *base* district that eliminates parking mandates for all uses (residential and nonresidential), enables by-right multi-family development up to 6 stories (more in other places), enables by-right commercial development (including retail, service, laboratory/tech, and institutional uses, among others), and eliminates minimum lot sizes and floor-to-area ratios as regulatory tools in these zones.

Alternatively or in addition, the Draft Code could introduce additional density bonuses, use allowances, or dimensional relaxations tied to proximity to high-capacity transit or promoting walkability.

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Thank you for providing me with the opportunity to offer ideas to improve Atlanta's Draft Code and, I hope, help inform changes to the land use laws that bar people from opportunity. The recommendations offered by this Part are meant as a starting point. Some are needed to prevent the

Draft Code from being worse than the current code. Each individually, and altogether collectively, all help the City move closer to delivering to Atlantans a zoning code they can live by.

APPENDIX

This Appendix offers my comments regarding a handful of the provisions in the Draft Code that I believe would benefit from modification. Given time constraints, I was only able to conduct a brief skim of these provisions, and I am only providing shorthand comments. Someone should review the entire Draft Code line by line to ensure that it is clear, legally sound, and reflective of modern planning principles and pro-housing values.

CHAPTER 1 COMMENTS:

- § 1.1.3.(Purpose): Update the statement of purpose to replace outdated language (including references to “order” and “character”) drawn from the century-old Standard State Zoning Act with simpler and more modern language. I suggest: “This Part is made in accordance with the Comprehensive Plan for the City of Atlanta. It is designed for the purposes, among others, of creating a more accessible, sustainable, well-connected, and beautiful Atlanta: a city where every resident and stakeholder has access to opportunity, feels safe in all neighborhoods, and has access to all of the facilities, services, natural resources, and utilities they need to be healthy—and to flourish.”
- § 1.1.5. (Application of Regulations): Revise to replace “the regulations for the district in which it is located and with regulations of general application” with “the applicable regulations,” as the deleted language implies only one district will govern any given parcel, and there are regulations beyond the district regulations that do not necessarily fall into the concept of “regulations of general application.”
- § 1.1.6.B. (Severability): Delete the opening sentence, “It is the intention of the City of Atlanta that the provisions of any part of this Part are severable,” as the *intent* is not actually that the City wants to sever any part, and the remaining sentences are sufficient.
- § 1.2.3.C. (District Designations on Map): Delete the reference to parking zones in this provision, if parking requirements are stricken as recommended above.
- § 1.2.4. (Public Records, Map Maintenance, and Certification): Revise to clarify which document controls, as many jurisdictions’ maps (digital and paper) are inconsistent; the language could explicitly state that the electronic/GIS copy controls and is kept up to date.
- § 1.2.6. (Unauthorized Changes to Official Zoning Map): Delete the sentences regarding unauthorized changes to the map, which is not necessary as the Draft Code already states that only City Council action can effectuate a zoning change.
- § 1.2.7. (Replacement of Official Zoning Map): Delete this section indicating what happens when a map is “damaged, lost, or difficult to interpret” in its entirety, as it is a vestige of an era when maps were kept in paper copy; the City’s electronic/GIS map is presumably backed up in multiple places and therefore cannot become “damaged, lost, or difficult to interpret” in the same way that paper copies could.
- §§ 1.2.10. (Changes in Jurisdictional Limits), 9.2.6.A.5 (Procedure for Annexation, Automatic Zoning): Revise these and any other provisions that automatically zone annexed land for the same use for which it was zoned prior to annexation; as drafted, this may lead

to administrative chaos. Instead, indicate that annexed land should not have zoning (and is not developable) until the City Council acts to assign it to a zone.

CHAPTER 9 COMMENTS:

- § 9.1.4. (Director): Add “as applicable” (or equivalent clarifying language) to the Director’s authority provision instead of “*or* their designee is delegated” (emphasis added).
- § 9.2.3.C.1.c. (ZRB Public Hearing, Procedures): Revise or delete the minimum time requirement for public hearing presentations; as drafted, *requiring* a “minimum of 10 minutes per side” would force continuation of the hearing if 10 minutes per side is not achieved and could prevent the board from properly managing a meeting. This might occur when a zoning decision is supported by everyone or nearly everyone testifying, or where comments are informational rather than oppositional (i.e., for or against). I suggest the provision read: “A reasonable amount of time for the presentation of data, evidence, and opinion will be afforded to individuals wishing to present data, evidence, and opinion of each zoning decision.”
- § 9.2.4.A. (Criteria for Review and Decision, Zoning Amendment and Rezoning): Update this criteria section, which feels like a vestige from another era, to instead require that decision-makers advising on zoning amendments consider the following: “(1) Compatibility with the Comprehensive Development Plan and any related goals and written policies; (2) The impacts of the change on the quality of the natural environment, air pollution, water pollution, habitat, and biodiversity; (3) The economic impact of the change with respect to job creation, economic growth, access to education, or property values; (4) The extent to which the change would create new housing or result in the conversion of existing uses to residential uses; and (5) The impact the change may have on, or the upgrades that may be required for, utility infrastructure and city services, particularly the cost of new or expanded roads and the long-term maintenance of such roads.”
 - § 9.2.4.A.1. (Compatibility with Comprehensive Development Plan): If language not modified as suggested above, delete the sentence providing that the Director “will not recommend any change not in accord with adopted Comprehensive Development Plans,” as it puts more weight on the Comprehensive Plan than state statute requires and would effectively prohibit all code amendments until the plan is updated; the plan is better treated as a factor, rather than a binding constraint.
 - § 9.2.4.A.2. (Availability of Other Land Suitable for Proposed Use): If language not modified as suggested above, delete the criterion regarding the availability of other land already zoned for the proposed use, as such availability is not easily calculable. Just because land is zoned for a purpose does not mean it is developable for that purpose. Replace with a focused environmental impacts criterion, cutting off at the environment without extending into the “balance of land uses” and “public need” language, which does not make sense.
- § 9.2.4.B.1. (Special Use Permit, General Criteria): Delete the first two sentences in the paragraph (beginning “Although the City Council previously made the legislative determination”), which unnecessarily restates legislative history and weakens the provision. I would suggest replacing with: “This Zoning Ordinance identifies land uses requiring a Special Use Permit before they will be allowed within a given district.”

- § 9.2.5.A. (Modification of Approved Conditional Site Plan): Narrow the definition of a “major revision” triggering a new application for site plan review. For example, adding 1 unit to a 400-unit building should not be a major revision, nor should “any change to a use category.” I suggest that anything qualifying for an administrative variance be considered a minor revision, and that major revisions include only increases in the total number of dwelling units or floor area of nonresidential use by more than 15%/20%, or increases in the approved maximum building height by more than 5% of the approved height, as a starting point.
- § 9.2.6.A.5. (Procedure for Annexation, Automatic Zoning): See § 1.2.10 comments above.