

Housing & Infrastructure and Community Development Committees

Meeting on Zoning Reform

The Clarkston City Council is considering zoning reform that consists of three major components: (1) revising zoning ordinances to require Planning and Zoning Board review and public hearings for Conditional Use Permit, and to increase advance public notice of any application for a variance, rezoning or conditional use permit; (2) revising zoning ordinances to encourage downtown development and improvement of the housing stock; (3) legalizing and permitting the provision of child care and early learning schools in Clarkston apartment complexes. Each of those changes is summarized below:

1. Increasing Public Input to Zoning Changes

While state law does require public hearings for conditional use permits, currently Clarkston law does not require a public hearing or Planning and Zoning Board review for conditional use permits. Section 304 of the zoning code does require zoning changes, such as variances or rezoning to go through Planning and Zoning Board review, as well as having a public hearing, prior to a council vote on the proposed changes.

Given the recent controversy over Rowland, the council is considering amending Section 304 of the zoning code to require conditional use permits to also go through the same planning and zoning board review and public hearing process as zoning text or map amendments prior to the council voting on any conditional use permit.

The council is also considering amending Section 303 of the zoning code to have the city planner notify the city council and the public at the next city council meeting if a complete application for zoning change or conditional use permit has been received. This change would ensure that the public knows about any such applications well in advance, and thus has the time to give input to the council regarding the proposed changes.

2. Revising Zoning Ordinances to Encourage Downtown Development in compliance with the Clarkston 2040 Plan

The Clarkston City Council has been discussing potential changes to the Clarkston zoning code to encourage downtown development with Nick Zaiac, a fellow at the think tank R Street Institute who specializes in zoning reform and has advised several other cities on modernizing their zoning codes to encourage development. Below is the paper that Mr. Zaiac provided the City of Clarkston at no charge.

Proposed Zoning Changes

[Working paper]

Case Study in Land Use Regulation: Clarkston, GA

Nick Zaiac

Fellow, Commercial Freedom

R Street Institute

Introduction

The town of Clarkston, GA is a novel polity in the American municipal ecosystem. The city is demographically unique, home to a large immigrant population and a majority-renter housing market that [existing scholarship](#) indicates should support substantial housing market investment. This dynamic has not manifested in Clarkston. The [Clarkston 2040 plan](#) notes that, unlike nearby communities, Clarkston has not experienced any substantial multifamily building in a generation, despite the majority of town residents being renters. The town only issued 2 building permits between 2012 and 2016. Its buildings are old and aging, making them costly to cool, above and beyond the other problems typical of buildings at the end of their useful lives. The region is growing, and Clarkston's great highway access is a major selling point to commuters. When building lags in towns like this, land use regulatory [policy](#) is likely the reason why.

A Piecemeal Plan to reach Clarkston 2040

Fixing Clarkston's land use regulation is no simple task. Re-mapping the town, expanding the existing town center zone and consolidating the 5 existing residential zoning categories into one or two types, is the most direct route to a land use regulation environment that supports the kind of building the town's long term plan envisions. The risk to any widespread rezoning is that it could tighten regulation in the town's existing mixed use zones while adding rules to areas where existing types of zoning conflict, most notably whether townhouse development is allowed or not. Rather than a broad, town-wide rezoning, updating the existing zoning regulations in a piecemeal fashion to remove their most burdensome aspects is a less-risky and less-contentious path forward.

Components of Clarkston Zoning

Floor area ratio: These rules are the most binding of the zoning code regulations and are most likely to be why new housing isn't getting built. The predominance of .4 FAR in residential zones saps flexibility for builders above and beyond other requirements. Raising FAR from .4 to .5 in NR-1,2, and 3 zones would open new possibilities to improve the housing stock in single family zones by allowing new additions to existing homes by-right. Growing families would be able to buy homes knowing they could be expanded, while landlords would appreciate the opportunity to build larger apartment floor plans.

FAR is currently limited to .5 in Clarkston's commercial zones. In an NC-1 zone on a minimum size lot with a minimum width and all setbacks, a builder may build a 1-story building covering 90% of the buildable lot area because FAR regulations are not high enough to allow a second storey. Raising the FAR from .5 to .8 in NR-CD zones would allow for townhomes with smaller yards, which are desirable to the elderly and busy professionals. Increasing residential FAR in these zones to 1.0 such that the allowed ratio of residential to nonresidential is 50%/50% would allow more traditional, 1 floor of housing over 1 floor of retail style development than the current 25%/75% division.

Minimum residential unit size: Minimum unit sizes put renters in the awkward situation of having to rent more space than they need. Clarkston's rules mandate different minimum sizes across zones. The town's regulatory burden would be lower if these sizes were harmonized to the NR-CD minimum of 700 square feet or the NR-3 minimum of 800 square feet.

Building coverage: These rules duplicate what FAR does but with less flexibility and could be scrapped without any change in what can be built. Setting FAR to the current building coverage ratio where the latter is greater would make building simpler while modestly adding to the potential square footage built.

Max building height: Current 35 foot height caps in NR-1 to 3 zones are not a major limitation because FAR limits overall parcel density such that homes of 3 or more stories make little sense. Increasing the potential height from 35 feet to 40 feet would allow for more 3 floor homes. A 50 foot allowed height is the tallest currently on the books, in TC, NR-CD zones and NC-2 zones. Together, these zones comprise almost all parcels bordering NR-3 zones, justifying an increase in NR-3 zones to match allowed heights in neighboring areas. Alternately, building height maximums could be scrapped entirely, with building form dictated by FAR and setback requirements.

Minimum lot size: The size of buildings is limited by FAR, such that allowing smaller lots would not make for dramatically more building so long as setback requirements remain in place. Lowering these ratios by 50% (to 1/8 acre lots in NR-1 zones) would allow for more opportunities to build and renovate. Smaller lots are especially prized by the elderly, disabled, and other groups that seek to limit the amount of outdoor space they need to maintain.

Lot width: Could be lowered to allow for smaller, denser houses but not the binding regulation when minimum lot sizes are in place. If those are lowered, minimum lot widths should be reduced as well. Lowering minimum widths from 75 feet in NR-1 (and NR-CD multifamily) and 60 feet in NR-2 (and NR-CD single family) zones to the 50 foot minimums in place in NR-3 and

RC zones would be a good starting point. Of special note are minimum lot width provisions as they apply to townhomes. To allow new townhouse development, planners recommend minimum lot widths of 20 to 25 feet.

Front yard setback: Particularly an issue in NR-1 zones, where current rules mandate a minimum 2250 square foot front yard, with yards in NR-2 zones being smaller but still significant. Trimming front setbacks in NR-1 and NR-2 zones from 30 to 20 feet and 25 to 15 or 20 feet would give builders flexibility to have front yards that have less grass to mow and leaves to rake.

Side yard setback: Range from 5 to 15 feet. At minimum, those zones with 15 foot setbacks should be lowered to 10 feet, as exists in NR-1 zones. For NR-CD zones, side yard setbacks are 15 feet for single family and nonresidential uses and 10 multifamily uses, and this would simplify the code. Lowering setback requirements to 7 feet would be further step to increase the size of the buildable lot area. An alternate setback criteria would be a 10-20 foot combined side yard setback, which has the benefit of allowing duplex development in existing residential zones.

Rear yard setback: Range from 10 to 25 feet. Lowering all rear setbacks to 15 feet would be one option. Another would be lowering those zones with 25 foot setbacks (NR-CD and NR-1) to the 20 foot setback in place in NR-3 and RC zones.

Parking: Townhomes in NR-3 and NR-CD zones have substantial parking requirements. All townhomes must have both a 2-car garage and a driveway no less than 20 feet long to allow parking for 2 (or potentially 4) more cars. Beyond this, each development must have one extra space per 5 units. Accessory dwelling units in these zones (unlike NR-1 and 2 zones) must have parking for 2 cars for any unit. If Clarkston wishes to see substantial townhome or accessory dwelling unit development, removing these rules would be a start.

Permitted uses: This list can be expanded in all zones to allow for more mixed-use development and for more small and home-based businesses. Existing RC zoning is a reasonable model in the code who's allowed uses could be applied to NC, NR-CD and R-3 zones. Allowing professional offices in these zones would be one option, as these uses generate little traffic and would increase local employment opportunities. Allowing child care facilities would bring some off-the-books daycare companies onto town tax rolls. Local bakeries, coffee shops, nail salons, and other such retail could blend well into NR-3 zones if the list of allowed uses is expanded. Bed and breakfast inns could be allowed townwide with the same rules as exist in RC zones, allowing homeowners a potential revenue stream. Expanding permitted uses allowed in TC zones to NC-2 zones would open more of the town to uses like hotels movie theaters and bowling alleys could give residents things to do in town. The blanket ban of all businesses not specifically named as allowed in TC zones could be a major cause of commercial stagnation [see 708(d)10].

Buffers: NR-3, NR-CD, RC, NR-1, NR-2 and TC zones have buffers for lots that abut other uses. These can range from 10 to 40 feet of landscaped area depending on which two zones are present, lowest for TC zones, and highest for NR-2 zones. At minimum, lowering all buffer requirements to the 20-foot minimum in place in some zones would allow more of a lot to be developed. Alternately, buffer requirements could be removed entirely is an option. Clarkston's zones already have setback requirements that provided needed buffer without the landscaping micromanagement that comes with

Recreation facilities: All townhomes must have a recreation area no less than 10,000 square feet or 1 acre per 50 townhomes whichever is greater. 75% of townhomes must be within 300 feet of this recreation area. Minimum lot width in NR-3 zones is 50 feet, such that a recreation area must be no further than 6 lots away (actually less because this is measured from the building footprint), limiting density above and beyond other NR-3 zoning regulations. Each recreation area must have both passive and active recreation, with the latter potentially requiring insurance to be purchased by the HOA. Removing this requirement entirely is a prerequisite if Clarkston hopes to open itself to this popular form of small-scale development.

Fence and outbuilding regulations: In residential zones, rules state that all outdoor storage must be hidden from the street by (specifically) a 6-foot wooden fence. Removing the material mandate would allow homeowners to install fencing that needs less upkeep than wooden fences. Outdoor storage is disallowed entirely in RC zones. This rule is burdensome to RC zone residents and business operators, as sheds that would be allowed behind a wooden fence in other residential zones are not in this one type.

Expanding the density bonus: One way to make the zoning work toward new building would be to expand the open space density bonus in town center (TC) zoning by increasing the density bonus from 10 per foot of green space to 20. Open space density bonuses add rigidity to the local housing market permanently, as such, increasing the amount of bonus would compensate for this by allowing more density at the start of the building supercycle and prevent the need for new variances in the long term.

The Clarkston City Council is also considering amending ordinances to permit the development of a brewery in downtown Clarkston, as a brewery has expressed interest in building there. The development of a brewery in Clarkston may substantially increase foot traffic to downtown Clarkston, and thus help other businesses in the area.

3. Permitting Child Care and Early Learning Schools at Clarkston Apartments

Currently Section 605 of the Clarkston code regulating home-based businesses does not permit home-based child care, often called family child care, in dwellings. In the majority of cities, family

child care is an allowable use of residential property as long as it meets city, county, and state licensing regulations. The Clarkston City Council is considering permitting home based or family child care for up to 6 children in Clarkston residences subject to city and state regulations. Further, CDF Action and other organizations are seeking funding through micro-enterprise and other grant programs to provide technical assistance to qualified individuals seeking to start up and operate quality, licensed family child care businesses programs. Family child care is often the child care of choice for families with infants and toddlers or for those needing child care during the evenings or week ends.

In addition, the Clarkston code (Section 605) does not permit group instruction (assembly) in apartments.. Several not for profit agencies desire to rent apartments to provide workshops and programs, including small learning programs and tutoring, at no cost to participants. These programs would be required to meet city, county, and state regulations related to that program (e.g., City of Clarkston business license, County Certificate of Occupancy if serving children). Permitting these types of programs increases opportunities for Clarkston families and youth.