



## **Testimony on 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 issued only 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 invoke calls to tighten regulation in the town's existing mixed use or low density residential zones. 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 floor.

Increasing residential FAR in NC-1 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. This would allow added residential and commercial space along the eastern side of Ponce de Leon as well as the blocks centered on Debelle Street. FAR in NC-2 zones is currently 2.0, which allows for 2 floor commercial and office buildings. Increasing this to 4.0 and removing rules on max FAR for residential and commercial space would allow these zones to host mixed use, 3-floors of residential over 1-floor of commercial developments.

Clarkston's NR-CD zones could be the biggest driver in improving the town's housing stock if existing FAR rules are amended. Right now, the zones allow a FAR of 2.0, but no more than .5 of that may be used for residential and no more than 1.5 may be used for non-residential uses. Removing these rules could allow all-residential buildings up to 4 floors or up to 3 floors of apartments over 1 floor of retail. Removing these two lines of the NR-CD bulk and massing table would generate approximately 3 million new square feet of developable square feet of residential space, or enough for about 3,000 new units without adding any new allowed density. Increasing allowed FAR in these zones to 3.0 could increase the number of potential units by another 1,000-2,000 without increasing allowed building heights.

**Minimum residential unit size:** Minimum unit sizes put renters in the awkward situation of having to rent more space than they need, which disproportionately harms the least well-off. 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. Better would be to lower this minimum size to 500 or 600 square feet in all zones

**Building coverage:** These rules duplicate what FAR does but with less flexibility and could be scrapped without any change in what can be built. Worse than FAR, combined with minimum lot size rules they can make lawns especially large, to the detriment of the elderly and disabled who

must pay someone to maintain them at best, or neglect them, creating hazards to health and safety, at worst.

**Max building height:** Current 35 foot height caps generally don't constrain building much in NR-1 to 3 zones because FAR limits overall parcel density in these zones to two floors, but the rules do limit building options on some properties. Increasing the potential height from 35 feet to 40 feet would allow for more 3 floor homes. A 50 foot allowed height, or, about 4 floors, is the tallest height maximum 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 the 50 foot allowed heights in neighboring areas. If this height increase is to do anything, it must be paired with increased NR-3 FAR from the existing .4 to a ratio more appropriate of the town's densest residential zoning category, at least .8, with 2.0 being the maximum FAR a 50 foot height limit and 50% lot coverage ratio would support.

A more substantial reform would be to remove building height maximums entirely, with building density 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 and 16 units per acre in NR-3 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 lot width rules are usually 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 in any zone Clarkston wishes to see these built in.

**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 whose 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, and these rules could be added to all other residential zones. 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 without needing to drive to neighboring municipalities.

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]. Repealing these rules would allow new types of commercial development in the core of Clarkston.

**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. Buffers add costs to buildings in a way setback requirements do not. Clarkston's zones already have setback requirements that provided needed buffer without the landscaping micromanagement that comes employing buffers as opposed to setbacks to limit the effect of properties on their neighbors.

**Recreation facilities for townhomes:** 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 made of modern building materials that need less upkeep than the wooden fences the existing code prescribes.

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. These rules fly in the face of the zones' "Residential-Commercial" designation

**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.

**Remapping:** Clarkston's existing zoning map has areas that could benefit from being rezoned to increase options when properties need to be rebuilt. The area near town hall on both sides of Rowland Street could benefit from being included in the Town Center zone that exists on the north side of Ponce de Leon.

Similarly, this zone could be extended south to incorporate the RC zones in the corridor that would provide far more buildable-square feet for retail and medium-density residential developments in a place that wouldn't add much traffic to existing residential areas. An alternative would be to expand the existing RC zone west to highway 285. This would allow more retail and apartments where they are most convenient to potential tenants while potentially bringing more vibrancy than the existing low-density NC-1 designation can provide.

### **Concluding thoughts**

The Clarkston 2040 plan lays out goals for the town's long term development but does not provide specifics to how to achieve this vision. What it does make clear is that town's zoning laws have not successfully allowed local landowners the ability to add density as the town's population has more than doubled in a generation. The many existing rules on building bulk, massing, height, and allowed uses have prevented the development of medium-density, intergenerational and mixed-use housing that would accommodate this growth.

The plan above constitutes a series of recommendations that would move toward the vision of Clarkston 2040. What it hopes to make clear is that the specifics of zoning rules matter as much as their intention, and policymakers must understand that any given regulation could be the reason a development doesn't happen. Whether any reforms succeed in their goals will be a task for future analysts to assess.