



Exclusionary Land Use Practices: Growth Impacts and Opportunities for Change

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- Exclusionary Practices
 - Case Study: Sandy Springs
 - Legal Analysis
 - Inclusionary Practices
 - Private Market Evaluation of EZ and IZ Practices
 - Recommendations

Regional Snapshot

The Atlanta Metropolitan Region is...

- **the least dense major metropolitan area in the U.S.**
 - 2/3 of housing in metro Atlanta is single-family detached
- **fourth in nation for annual delay per traveler**
 - annual traffic delay has tripled since 1992
- **second only to San Francisco in combined housing and transportation cost**
 - increases in housing and transportation costs from 2000 to 2005 outpaced income gains

Jobs/Housing Imbalance

“Drive ‘til you qualify”

Imbalance in housing:

- Location
- Choice/type
- Affordability

Workers making less than \$40,000 per year face a shortage of 185,000 units of housing that are both affordable and convenient to job centers.

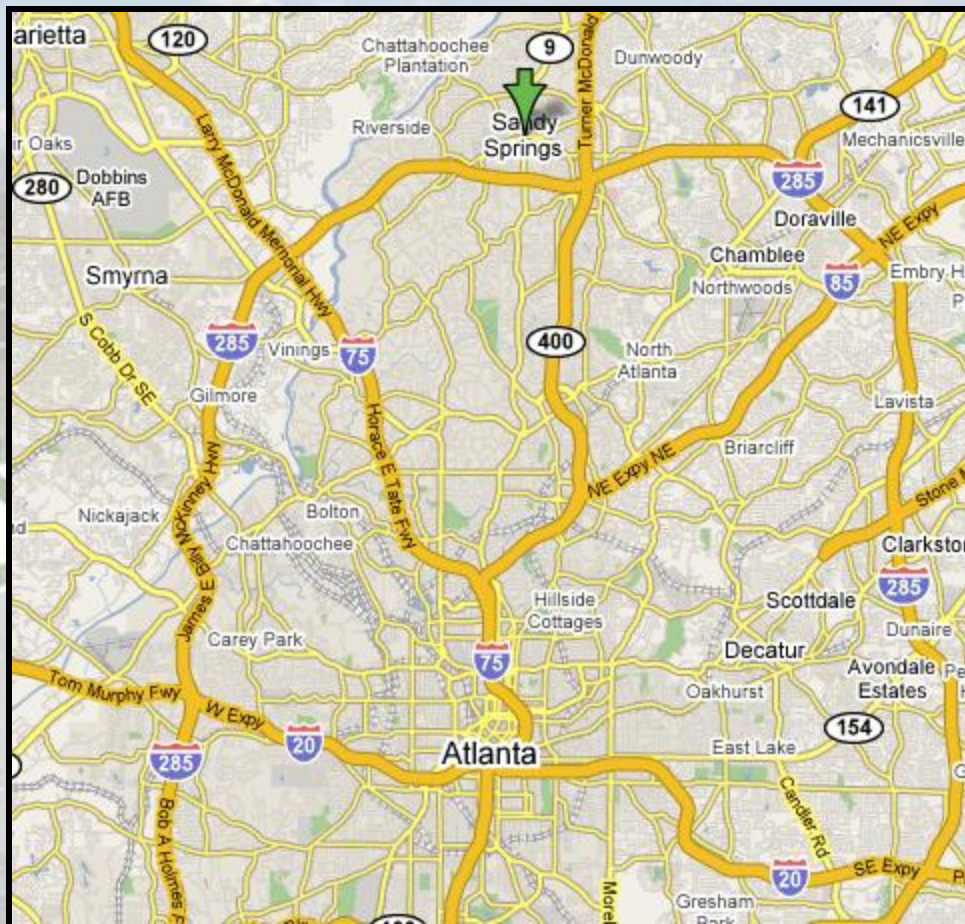
Exclusionary Practices

Exclusion of use, activity or unit through development patterns established in zoning, subdivision or building codes.

- Minimum lot size
- Minimum house size/FAR
- Low density zones
- LULUs
- Material requirements
- Ban or moratorium on multifamily housing

SANDY SPRINGS

GEORGIA



Sandy Springs, Georgia

Housing Statistics:

- Currently, 41.1% of households make less than \$50,000¹
- 5,346 New Households making less than \$50,000
 - *Represents 57% of new households²*
- Over 30% of renters are cost-burdened by their living situation³
- 4 public housing developments, but 3 are strictly for elderly
 - *Only 9 units in the family public housing*

¹Source: U.S. Census Bureau. Census 2000. SF3. Table HCT11

²Source: "Workforce Housing Balance for the Atlanta Regional Commission: A Spatial Distribution Assessment." March 25, 2004, Arthur C. Nelson, Ph.D., FAICP

³Source: Source: U.S. Census Bureau. Census 2000. SF3. Table H69 and H70

Livable Sandy Springs Plan

2002

- Jobs-Housing Balance
- Net Density up to 40 units per acre
- Density Bonuses for:
 - Mixed-Use
 - Affordability



Sandy Springs Comprehensive Plan

November 2007

- *“...predominantly single-family, detached homes at low densities...”*
- *“...characterized by large lots, substantial tree cover, and low vehicular traffic.”*



Sandy Springs Comprehensive Plan

November 2007



Source: City of Sandy Springs 2027 Comprehensive Plan

“Redevelopment within single-family neighborhoods may take place through teardowns of older, smaller homes and replacement with single-family houses at compatible densities...”

To Top it Off...

November 2007

Favor redevelopment of existing multi-family into condominiums, mixed-use, and townhomes

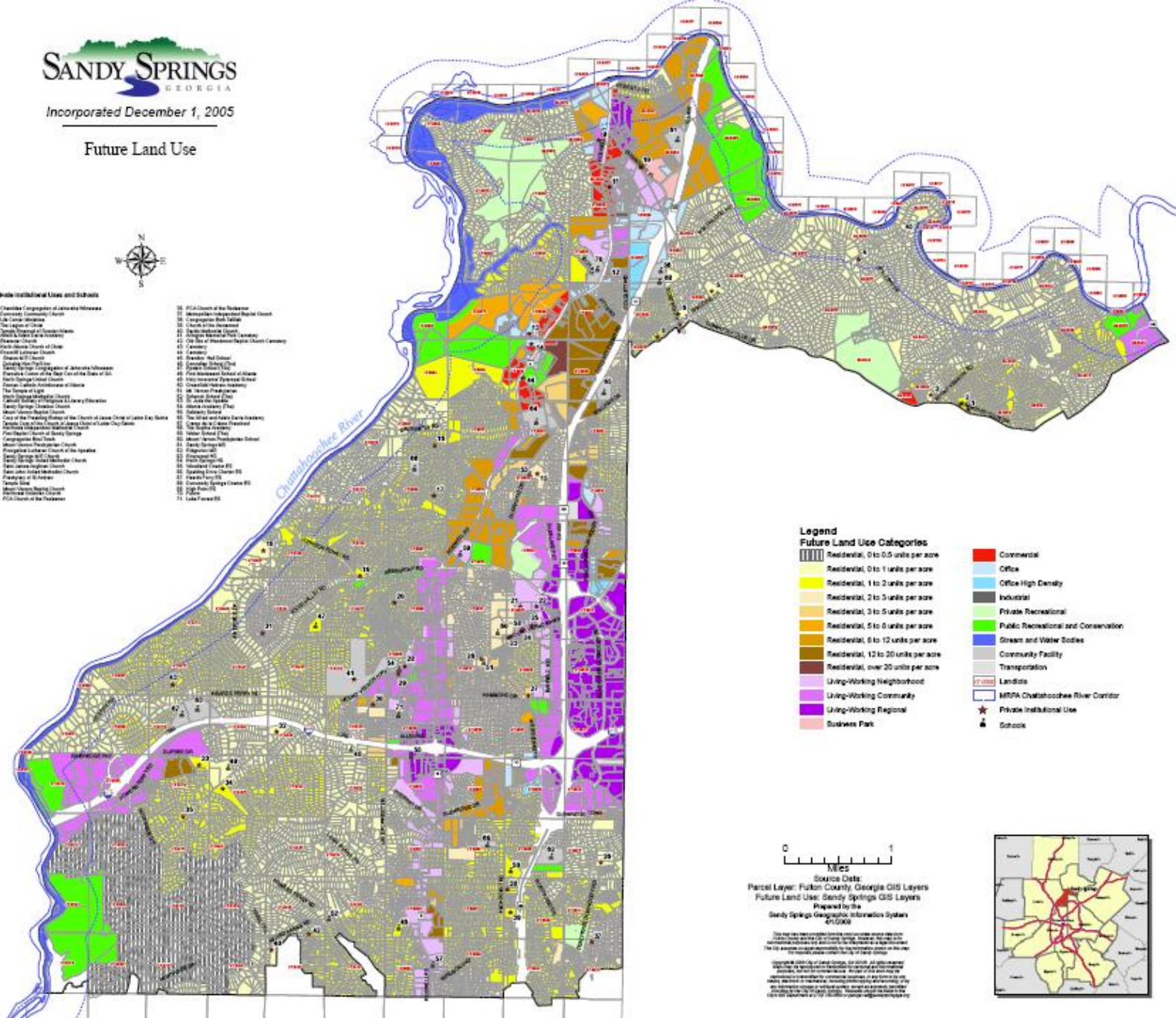
No mention of density bonuses for MU development or workforce housing in Sandy Springs Overlay District or surrounding zoning

Future Land Use



Private Institutional Uses and Schools

- | | |
|--|---|
| 1. Christian Congregation of Jehovah's Witnesses | 36. P.O. Church of the Redeemer |
| 2. Covenant Community Church | 37. Metropolitan Independent Baptist Church |
| 3. Life Center Assembly | 38. Congregation Beth Shalom |
| 4. The Light of Christ | 39. Church of the Redeemer |
| 5. Sandy Springs United Church | 40. Southside Baptist Church |
| 6. Sandy Springs United Methodist Church | 41. Sandy Springs United Methodist Church |
| 7. Wesleyan Church | 42. Old Stone Methodist Episcopal Church Cemetery |
| 8. First United Methodist Church | 43. Wesleyan Methodist Church |
| 9. First Baptist Church | 44. Canterbury |
| 10. Church of Christ | 45. Wesleyan Methodist Church |
| 11. Wesleyan Church | 46. Wesleyan Church |
| 12. Wesleyan Church | 47. First Methodist Church of Atlanta |
| 13. Wesleyan Church | 48. First Methodist Episcopal Church |
| 14. Wesleyan Church | 49. Wesleyan Church |
| 15. Wesleyan Church | 50. Wesleyan Church |
| 16. Wesleyan Church | 51. Wesleyan Church |
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| 35. Wesleyan Church | 70. Wesleyan Church |
| 36. Wesleyan Church | 71. Wesleyan Church |

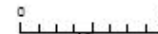


Legend

Future Land Use Categories

- Residential, 0 to 0.5 units per acre
- Residential, 1 to 1 units per acre
- Residential, 2 to 3 units per acre
- Residential, 3 to 5 units per acre
- Residential, 5 to 8 units per acre
- Residential, 8 to 12 units per acre
- Residential, 12 to 20 units per acre
- Residential, over 20 units per acre
- Living-Working Neighborhood
- Living-Working Community
- Living-Working Regional
- Business Park

- Commercial
- Office
- Office High Density
- Industrial
- Private Recreational
- Public Recreational and Conservation
- Stream and Water Bodies
- Community Facility
- Transportation
- Landfills
- MTPA Chattahoochee River Corridor
- Private Institutional Use
- Schools



Source Data:
Parcel Layer: Fulton County, Georgia GIS Layers
Future Land Use: Sandy Springs GIS Layers
Prepared by:
Sandy Springs Geographic Information Systems
4/15/2008

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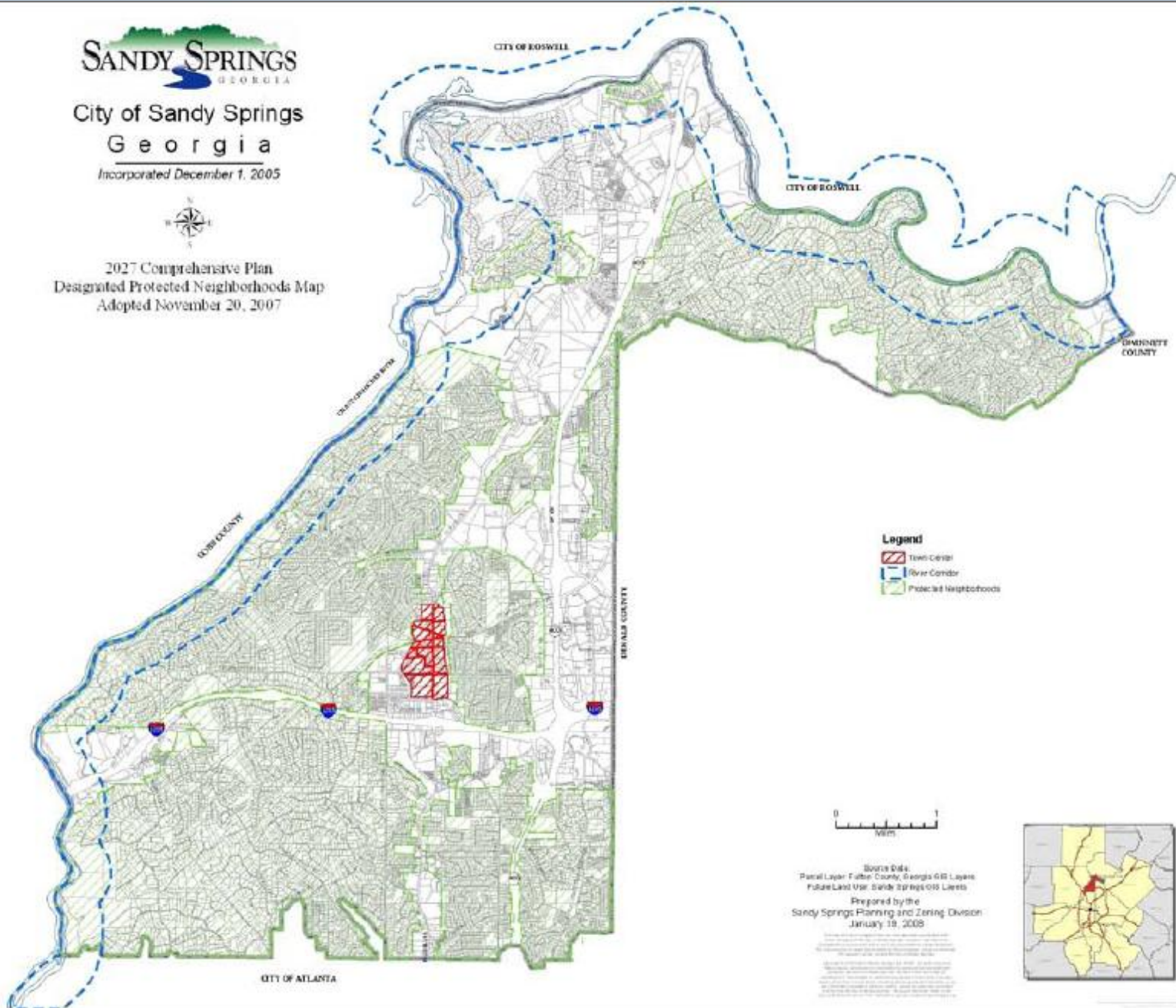


City of Sandy Springs Georgia

Incorporated December 1, 2005



2027 Comprehensive Plan
Designated Protected Neighborhoods Map
Adopted November 20, 2007



Source: City of Sandy Springs 2027 Comprehensive Plan

Federal Law

- *Euclid*: Authority to states- Police Power
- Strict Standing Requirements
 - *Warth* requires that plaintiff show he could live in the area if not for the exclusionary practice
- Presumption of Validity- *Euclid*
 - *Village of Belle Terre*- promotion of family values
 - Avoidance of economic harm is legitimate

Constitutional Claims

- Equal Protection Clause
 - Requires affecting a “fundamental right” or “suspect class”
 - Access to affordable housing not a fundamental right. *James v. Valtierra*
 - Financial need does not establish a suspect class. *Mayer v. Roe*

Georgia Law

- Ga. Const. grants power to local gov't
 - Local government has substantial interest in maintaining property values
- Presumption of Validity



Georgia Law

- *Cannon v. Coweta County*
 - Per se restriction on mobile homes invalidated by Supreme Court
 - Trial Court finding of adverse impact on property values not enough
 - Must show unfavorable comparison to site-built homes based on building standards.
- *King v. City of Bainbridge*
 - Expressly over-rules *Cannon*
 - Impact on property value is legitimate goal of public welfare

Potential for Inclusionary Requirements

- Other states have done it (*Mt. Laurel* & Mass. General Law 40B)
- 1976 v. 1983 GA Constitution
 - General Assembly retains power
- *Henry Co. v. Tim Jones Properties, Inc. (2000)*
 - Min lot/home size unconstitutional to the extent that the property could not support the restrictions.
- However, *Bainbridge (2003)*

Legal Alternatives

- Regional Compact (proposed Piedmont Compact)
 - Gives contractual obligations
 - However,
 - Only parties that are privy to contract can enforce (governments)
 - Developers/Excluded Parties would have to argue 3rd party beneficiary theory.

Inclusionary Zoning



- Affordable housing for low/middle incomes
- Can be mandatory or “voluntary” (incentive-driven)
- Generally promotes diversity within communities
- Relatively common in California, Colorado, Massachusetts, D.C., etc.

Case Studies

- Morgan Hill: developers compete to provide affordable housing
- Carlsbad: Flexibility
- Monterey County: In-Lieu Fees and their importance

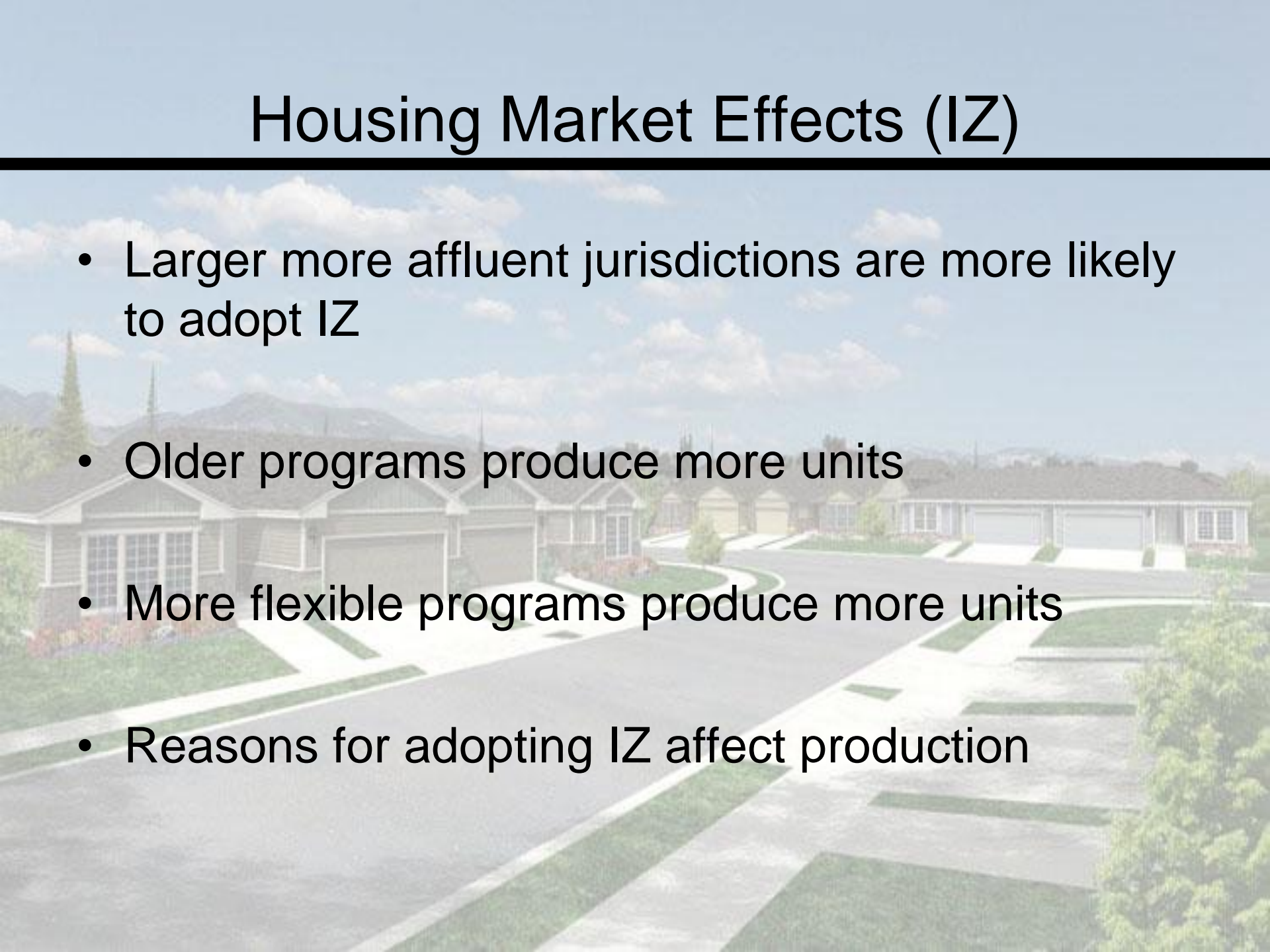


Fair Share Housing Examples:

- LA's "Fair Share Program"
- Belmar, NJ gets on board
- Snohomish County, WA



Housing Market Effects (IZ)

- Larger more affluent jurisdictions are more likely to adopt IZ
 - Older programs produce more units
 - More flexible programs produce more units
 - Reasons for adopting IZ affect production
- 
- A photograph of a modern residential development. The scene shows a row of single-story houses with light-colored siding and dark roofs. The houses are arranged along a paved road with green spaces and small trees. The sky is blue with scattered white clouds. The overall atmosphere is bright and clear.

Housing Market Effects (IZ)

- Little is known about the policy effects of IZ
- NYU Study: San Francisco, Boston, and DC
 - San Francisco- 93% mandatory
 - Boston- 58% mandatory
 - DC – 80% mandatory

Housing Market Effects (IZ)

- If developers cannot recoup losses they may:
 - (1) Develop in jurisdictions with no IZ programs
 - (2) Raise market rate prices
 - (3) Lower the price they are willing to pay for land
- IZ is not a one size fits all tool-cannot be used to fix all housing challenges

Housing Market Effects (EZ)

- Excludes and restricts from specific jurisdictions
- Dependent variable: price of home
- Independent variables: housing characteristics, income, zoning, and neighborhood characteristics
- Zoning that repels the poor attracts the wealthy

Greater Public Intervention into the Private Market? IZ or EZ?

- Goes both ways
- “You can’t come” vs. “We want you to come”
- EZ preserves prices for single family homes
- IZ strives to provide equity

Recommendations

In addition to regulatory changes, focus on planning, education and advocacy regarding:

- Housing Need
- Land Use and Transportation
- Complete/Lifecycle/Lifelong/Mixed communities



Thank you.

Questions?