

Guiding Growth and Development in Georgia

**A HANDBOOK ON PLANNING AND
LAND USE LAW AND PRACTICES**



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INTRODUCTION

Georgia has the good fortune of being one of the most dynamic and rapidly growing states in the nation. While that growth presents many challenges for local officials and citizens, it also presents opportunities. Communities are learning that they need not be passive receptacles for growth. Instead, they can manage and shape development, reaping benefits while preserving resources and cherished landscapes.

Georgia's land use laws, together with innovative planning and fresh approaches to community engagement, provide the tools needed to build strong communities that are sustainable both economically and environmentally. This guide is intended to provide an overview of those planning tools and the laws, terms, and concepts essential for using them wisely.

It is divided into five chapters:

1. The Lay of the Land

an overview and history of planning

2. Frequently Asked Questions about Land Use Law

a discussion of a handful of the thorniest land use legal issues

3. Changing Needs and the Changing Face of Growth

a brief look at growth trends

4. Techniques for Getting Growth Where You Want It

an overview of tools and methods available to shape growth

5. Planning with the Public: Best Practices in Citizen Engagement

a survey of public participation methods and goals

Throughout the text, 21 smaller subsections define planning terms, explain concepts, or point the way to valuable resources.

The Livable Communities Coalition, a team of 42 member organizations that support smarter growth and development in metro Atlanta, designed this guide for elected officials and interested citizens. It is not meant as a substitute for professional legal advice or planning; it is an introduction. It is intended instead to suggest that elected officials and citizens can positively shape the growth and development that must come their way and point the way toward helpful practices.

A copy of this guide is also available on the Livable Communities Coalition's Web site, www.LivableCommunitiesCoalition.org. Other helpful materials available there include:

- Smart Growth Scorecard, an exhaustive, 50-question test that helps communities determine whether a proposed development promotes vibrant, healthy, sustainable communities.
- Smart Growth Implementation Toolkit, an excellent suite of practical tools created by the Smart Growth Leadership Institute, a project of Smart Growth America in cooperation with the U.S. Environmental Protection Agency (EPA). The toolkit shows communities how to audit comprehensive plans and zoning codes, map growth strategies, and identify smart growth projects.
- Greenfield Development Guidelines, a two-page document explaining principles and tactics for development on previously undeveloped land.
- Housing Choice Guidelines, a two-page guide to building housing suitable for everyone.

Also available on the Web site are:

- Pictures of innovative local, regional, and national projects.
- Related news.
- Information about the Coalition, including a list of its member organizations and an explanation of its founding principles.

FOUR PRINCIPLES FOR QUALITY GROWTH

Four core concepts guide the Livable Communities Coalition's work in the metro Atlanta region. The Coalition believes that it's important to:

- *Build dense, walkable communities in appropriate places – especially in town centers and along major transportation corridors – so that housing, offices and other workplaces, stores, and parks blend conveniently and harmoniously.*
- *Make a variety of transportation investments appropriate for urban, suburban and rural areas and needs, so that more residents have choices on how they get around.*
- *Increase the types of housing choices available at a wide range of prices, creating communities that welcome residents of all incomes and ages.*
- *Make careful, efficient use of land and water; encourage development where water lines, sewer service and roads and other infrastructure already exist or are budgeted; and conserve greenspace for parks, recreation, natural buffers and natural places.*

To learn more, or to see examples of communities that incorporate these principles, please visit www.LivableCommunitiesCoalition.org.

The Lay of the Land

Today, planning and zoning are generally regarded among the most basic functions of local government. They certainly are among the most closely watched—and criticized or cheered, depending—by citizens. Zoning as we know it today, however, has existed for less than 100 years nationally and truly took root in Georgia in just the last half-century. The concept was pioneered in New York City in the 1910s, and the Georgia General Assembly first granted zoning power to the City of Atlanta in 1921.

The validity of zoning under the U.S. Constitution was in doubt until the U.S. Supreme Court declared in *Village of Euclid, NY v. Amber Realty* that it was a legitimate exercise of the state’s “police power,” provided it was used legitimately to protect “health, safety, morals, convenience and general welfare.” In the 1920s, the U.S. Department of Commerce, then under Herbert Hoover, published the Standard Zoning Enabling Act and promoted it to governments throughout the country.

Georgia began piecemeal adoption of zoning in larger cities in the 1930s, but it was the 1957 Georgia General Planning and Zoning Enabling Act that firmly established the legal foundation for planning and zoning in Georgia. In 1983, when the Georgia Constitution was rewritten, the reference to zoning power was shortened to just two sentences:

The governing authority of each county and of each municipality may adopt plans and may exercise the power of zoning. This authorization shall not prohibit the General Assembly from enacting general laws establishing procedures for the exercise of such power.¹

Under the Georgia Constitution, localities are granted zoning “home rule” power over most land use decisions, except as limited by the constitution. However, as the language above makes clear, the state legislature has the authority to establish procedures that local governments must follow. In 1985 the General Assembly did just that. It adopted the Zoning Procedures Law² (*please see General Requirements of the Zoning Procedures Law*). It also adopted a separate measure, known as the Steinberg Act³, which set minimum standards for counties with a population of over 400,000 and cities within those counties with a population of over 100,000. The Steinberg Act has since been amended to apply to counties with a population of over 625,000 and cities within those counties with a population of over 100,000.

Courts have ruled that the act of zoning through ordinances is legislative in nature. Therefore, courts presume that a zoning ordinance is valid unless there is clear and convincing evidence of (a) significant detriment to the landowner and (b) insubstantial relationship to public welfare.⁴

Planning and zoning are closely linked, but they are different functions. Both arise from the state’s police power to regulate private behavior for the protection of health, safety, morals, and general welfare. Zoning regulates how property is used. Good planning is what should drive zoning, and today most communities realize the importance of planning. Zoning based on good planning

ensures that citizens and property owners are provided with a clear and consistent rationale for land use designations.

The Georgia Planning Act of 1989 was the legislature’s attempt to “provide a framework to facilitate and encourage coordinated, comprehensive state-wide planning and development at the local, regional, and state levels of government ...” It:

- Empowered the state’s Department of Community Affairs (DCA) to assist local governments in the preparation and implementation of comprehensive plans.

GENERAL REQUIREMENTS OF THE ZONING PROCEDURES LAW⁵

State law sets out general guidelines for zoning procedures, but local jurisdictions may set additional requirements. That’s why it’s important to understand local as well as state requirements. In general, however, state guidelines set minimum standards applicable in all Georgia jurisdictions with zoning powers. Those guidelines provide that:

1. A public hearing for a zoning decision is required. Notice of the zoning hearing must be published in a newspaper 15 to 45 days prior to hearing. In some instances, signs must be placed on the property to be rezoned no fewer than 15 days prior to the hearing.
2. The notice of public hearing must include the time, place, and purpose of the meeting. In some instances, the present and proposed zoning classifications must also be stated.
3. Local governments must adopt policies and procedures to be followed during the zoning hearings with copies available to the public.
4. Proponents and opponents of the zoning request must be allotted equal time at a minimum of ten minutes each.
5. The local government must adopt standards by which its exercise of zoning authority is governed, with copies available to the public. For counties or municipalities affected by the Steinberg Act, standards must reflect the minimums set out there.
6. When rezoning is denied, there is a six-month waiting period before the property owner can re-apply for rezoning.

Additional procedures are established for the zoning of annexed property.

- Directed DCA to assist the governor “... in the development of a comprehensive plan for the state.”
- Established or re-designated local area planning commissions as regional commissions.
- Authorized the appropriate regional commission (for example, in the Atlanta area, the Atlanta Regional Commission) to review local plans, point out conflicts, and force local government reconsideration of plans.

Defining Terms: Planning and Zoning

Traditionally, zoning designates land use districts as *residential, commercial, office-institutional, industrial, agricultural, or mixed-use*, meaning the local government will allow use of land for those purposes and only those purposes. Some jurisdictions may issue special use or conditional permits granting exceptions for unusual land uses.⁶ Cemeteries and landfills, for example, may not fit under any standard land use designation and so may require a *special use* or *conditional permit*.

In addition to specifying the authorized use of the land, zoning usually also sets out conditions such as the number of residential units allowed per acre, the number of square feet of commercial space allowed, and building height limitations. Most zoning ordinances also include *development standards*, which are intended to ensure that structures and uses within a district are compatible with adjacent properties. For example, they may prohibit a high-rise building immediately adjacent to single-family homes or specify a certain distance between buildings.

STATE RULES ON COMPREHENSIVE PLANS

In the document Trends: Comprehensive Plans on its Web site, the state Department of Community Affairs (DCA) summarizes the benefits of planning as well as requirement for local governments:

Planning is an important management tool for promoting strong, healthy local governments. Planning has a myriad array of benefits for local governments. For instance, local governments can use planning to promote orderly and rational development so that the community remains physically attractive and important natural or historic resources are protected. Planning can also help local governments to invest their money wisely in roads, schools, water and sewer, and other facilities needed to improve the community and allow it to grow.

Georgia's Coordinated Planning Program: What It Means to Local Governments

In 1989, the Georgia General Assembly passed the Georgia Planning Act, which established a coordinated planning program for the State of Georgia. This program provides local governments with opportunities to plan for their future and to improve communication with their neighboring governments. The Planning Act also assigns local governments certain minimum responsibilities to maintain "Qualified Local Government" (QLG) status and, thus, be eligible to receive certain state funding. These opportunities and responsibilities are discussed below:

Local Comprehensive Planning

The cornerstone of the coordinated planning program is the preparation of a long-range comprehensive plan by each local government in the state. This plan is intended to highlight community goals and objectives as well as determine how the government proposes to achieve those goals and objectives. It is intended that the comprehensive plan be used to guide local government decision-making on a daily basis.

To maintain its QLG status, a local government must:

- Prepare and adopt a comprehensive plan that conforms to the "Minimum Standards and Procedures for Local Comprehensive Planning" which specify items the plan should address;
- Adopt and implement regulations consistent with the comprehensive plan and the Minimum Standards;
- Update the Short Term Work Program (STWP) portion of the plan at least every five years. (The STWP identifies and schedules specific activities to be undertaken over a five year period to implement the plan);
- Update the entire plan at least every ten years.

For more information about local communities' comprehensive plans and DCA's planning requirements, go to the DCA Web site (www.dca.state.ga.us) > Fostering Sustainable Development > Planning and Quality Growth.

A variance is needed for exceptions to development standards in a district.⁷ For example, a developer might request a variance to move a building closer to the street, reduce the number of parking spaces required, or decrease the amount of open space provided. While it is common for special use permits to be approved only for uses that will not have a detrimental impact on the surrounding neighborhood, variances are usually approved only in situations that would otherwise impose an undue hardship on a property owner.

Finally, there may be instances where new zoning conflicts with buildings or land uses that already exist. Such a *non-conforming* use is usually allowed to continue but not to expand.⁸ For instance, the service station that over time finds itself in a residential neighborhood is generally not asked to shut down but will probably not be allowed to add a convenience store.

Supplemental Glossary

Some terms referenced in this handbook need additional discussion. In addition, there are a handful of terms common to planning and zoning that aren't referenced elsewhere in this guide. They include:

Board of Zoning Appeals: A group appointed by the local legislative body to consider minor zoning adjustments and variances. It is empowered to conduct public hearings and to impose conditions of approval. Its decisions typically may be appealed to the local legislative body or Superior Court.

Development Fees: Fees charged to developers or builders as a prerequisite to permit approval. The most common are: *impact fees* such as park land acquisition fees or street construction fees related to public improvements necessitated in part or in whole by the development; *connection fees* such as water line fees to cover the cost of installing public services to the development; *permit fees*, including fees for building permits, grading permits, and sign permits, and for the administrative costs of processing development plans; and *application fees* meant to cover the administrative costs associated with rezoning applications, permits, variances, and other requests.

Down-zone: Rezoning land to a more restrictive or less intensive use—for example, from multifamily residential to single-family residential or from residential to agricultural.

Overlay Zone: A set of zoning requirements superimposed on a base zoning district. Overlay zones are generally used when an area requires special protection, as in a historic preservation district, or has a special problem such as steep slopes or flooding. They are also used as an alternative to current zoning. For example, an overlay zone might allow a mix of land uses in a district that otherwise is restricted to one use.

Planned Unit Development (PUD): Zoning which allows adoption of development standards specific to a project. Typically, PUDs involve a mixture of land uses, a departure from the conventions of most zoning codes. PUD zones usually do not contain detailed development standards. Instead, such standards are established during consideration of each proposal and adopted by ordinance if the project is approved.

Planning Commission: A group of residents appointed by the local government to consider land use matters. The commission's duties and powers are established by the local legislative body and might include hearing proposals to amend the general plan or rezone land, initiating planning studies, or taking action on proposed subdivisions. They might also include serving the role of a board of zoning appeals. (See **Board of Zoning Appeals** above.)

Setback: A minimum distance required between two structures or between a structure and a property line.

Land Use Timeline

An Overview of Key Developments in Georgia Land Use Law

- 1921** – Georgia Legislature grants zoning power to the City of Atlanta.
- 1927** – U.S. Supreme Court declares zoning power to be in accord with the U.S. Constitution in *Euclid, NY v. Ambler Realty*.⁹
- 1928** – The Georgia Constitution is amended to provide: “The General Assembly of the State shall have authority to grant to the governing authorities of the cities of Atlanta, Savannah, Macon, [and other named cities] authority to pass zoning and planning laws whereby such cities may be zoned or districted for various uses and other or different uses prohibited therein, and regulating the use for which said zones or districts may be set apart, and regulating the plans for development and improvement of real estate therein.”¹⁰
- 1937** – The Georgia Constitution is amended to grant zoning power to cities or counties with population above 1,000; later amended to include all local governments.¹¹
- 1945** – Home rule amendment authorizes Georgia legislature to enact general standards for zoning.¹²
- 1957** – Georgia Zoning Enabling Act outlines uniform zoning practices and appeals process.¹³
- 1966** – County Home Rule provision in Georgia constitutional amendment expressly grants counties the right to govern their land use and to form joint planning and zoning commissions with other jurisdictions.¹⁴
- 1969** – The Georgia Supreme Court in *Johnston v. Hicks* interprets home rule provision to mean that the General Assembly had been stripped of the power to directly regulate local land use.¹⁵
- 1976** – New constitution extends planning and zoning authority to municipalities and appears to annul the 1957 Zoning Enabling Act.
- 1983** – Georgia Constitution again revised to address zoning with this language: “The governing authority of each county and of each municipality may adopt plans and may exercise the power of zoning. This authorization shall not prohibit the General Assembly from enacting general laws establishing procedures for the exercise of such power.”¹⁶
- 1985** – Zoning Procedures Law passes, setting minimum standards for public notice and conduct of zoning hearings.¹⁷
- 1985** – Steinberg Act passes, requiring local zoning administrators to evaluate six criteria in considering rezoning, including compatibility with surrounding properties and potential impact on transportation, utilities or schools. (These criteria have been understood as guidelines, not a mandate. They apply only to counties with populations larger than 625,000 and cities of 100,000 or more within those counties, though some other jurisdictions follow the guidelines voluntarily.)¹⁸
- 1989** – Georgia Planning Act attempts to coordinate local, regional and statewide comprehensive planning, requiring local plans to be reviewed at the regional and state levels. Local implementation is voluntary. The statewide plan called for has never been produced.¹⁹
- 1990** – The Georgia Development Impact Fee Act sets rules for governments that wish to charge fees on new development in order to raise the funds necessary to serve that development with the infrastructure and services specified by the law.²⁰
- 1998** – The Georgia Transferable Development Rights law allows local governments to establish a mechanism for trading development rights between lands that are intended to be preserved and those that are intended to be developed. The Act was amended in 2001.²¹
- 1999** – The Georgia Regional Transportation Authority Act establishes the authority (often referred to as GRTA) as the entity accountable for ensuring that metro areas in the state comply with air quality standards. GRTA’s mission is to improve Georgia’s mobility, air quality and land use practices.²²
- 2001** – The Georgia General Assembly amends the 1985 Redevelopment Powers Law, expanding the ability of local governments to use tax increment financing to build the infrastructure necessary to support redevelopment. Localities may create tax allocation districts in which the expected rise in property tax revenues due to redevelopment is assigned to pay off bonds sold to raise the money for needed improvements in transportation, water and sewer, and other infrastructure.²³
- 2008** – The Georgia Supreme Court rules that school tax revenues may not be used for tax increment financing.²⁴

Frequently Asked Questions About Land Use Law

Accommodating future growth may involve changing existing zoning to allow innovative development. It may, for example, involve setting standards for the design of buildings and streets, for performance of the transportation network, or for mitigating the impact of development on services. As officials consider these changes, it is important to have a general understanding of planning and development law.

The following section attempts to address some of the misconceptions, gray areas and contentious points within the law. A caveat: While many issues are considered settled, others are not. Uncertainty regarding those issues may stem from a lack of court opinions, inadequate practical experience with some of the approaches, or the absence of professional consensus. The following discussion is intended as an overview, not a substitute for legal counsel.

Q1: Should I be concerned that a developer who doesn't get the zoning he wants will take us to court and win the zoning anyway?

A1: Local governments in Georgia have wide discretion to determine the use of property, and their decisions will not be disturbed by courts unless they are shown to be arbitrary and unreasonable. The Georgia Constitution delegates zoning powers to local governments, and most zoning decisions are also considered to be legislative in nature.¹¹ As a result, Georgia courts give great deference to local zoning decisions. By law, Georgia courts will presume that local zoning ordinances are valid. The burden of proof is on the property owner to overcome the presumption of validity.¹²

In addition to considerations laid out in the Steinberg Act, the Georgia Supreme Court has outlined considerations concerning the validity of rezoning decisions. They are known as the Guhl factors¹³ based on the court case that outlined the considerations. Some local governments have also integrated those factors into their criteria for rezoning decisions.

In appealing a zoning decision, the challenger must prove that the *existing* zoning on the property both results in a significant detriment to the property owner and has no public benefit. Disappointed zoning applicants must present clear and convincing evidence to the court in order to overturn a zoning decision.¹⁴ This is a difficult legal standard to meet. When facts are debatable, they are resolved in favor of local governments.¹⁵ There have, nonetheless, been successful challenges to local zoning decisions. (Please see the discussion immediately below of the court case *DeKalb County v. Albritton Properties*.)

Q2: Does the fact that local comprehensive plans are not ordinances lessen their value in court?

A2: A comprehensive plan is considered a guide or policy adopted by the governing authority. The weight given in court depends on the effort and thought put into preparation of the plan and the consistency of its use. Two Georgia Supreme Court cases present an illustrative contrast. In *City of Atlanta v. Tap Assoc.*,¹⁶ the city's preparation and use of its plan was a key to upholding a zoning decision. In that case, a road served as a boundary between low and high density development. The zoning application proposed re-zoning property to allow high density development in a neighborhood protected as low density residential, but which was across the street from other high density development. The court outlined policies in the comprehensive plan, which included a specific desire to protect the single-family neighborhood at issue by using the road as a line of demarcation. The court concluded, "[T]he City's zoning decision is consistent with the policies and long-range planning goals for the areas as adopted in the comprehensive development plans and the Buckhead transit station report. These development proposals were adopted after extensive study and often contentious debate among the interested parties..."¹⁷

Conversely, the court reversed a county zoning decision based in part on the lack of consistent application of the comprehensive plan in *DeKalb County v. Albritton Properties*.¹⁸ The court reasoned that a comprehensive plan is an important tool, but two factors rendered the plan ineffective. First, the county approved commercial construction in at least three instances for the area designated as residential. Second, commercial development immediately across the county line caused the "unraveling of a comprehensive plan at its edges." The court concluded that the "intrusion from within DeKalb County upon the development plan and the existence of a radically different land use approach immediately adjacent to Lake Hearn in Fulton County defeat the purpose of the comprehensive development plan for this particular area."¹⁹

Q3: I've heard that property owners in Georgia are entitled to the highest and best use of their land. What does that mean, and is it true?

A3: Property owners in Georgia have no legal right to the highest and best use of land. The term "highest and best use" is a real estate appraisal term. It defines the market value of property as the maximum profitability that is legally, physically and financially feasible.²⁰ When courts evaluate zoning cases, they weigh an owner's property rights against the public interest behind the zoning regulations, with the scales weighted in favor of local governments.²¹ A property owner is entitled to reasonable use of his or her property. Public officials, however, are under no obligation to grant zoning based on maximum profitability for the applicant. Georgia law requires a reasonable economic use of the existing zoning, not the requested or potential zoning.

Q4: Georgia has strong home rule provisions where land use decisions are concerned. Does that mean that the state legislature has no role in setting standards for zoning decisions?

A4: Georgia’s constitution grants local governments the legislative authority to establish zoning ordinances and policy. That means that the Georgia General Assembly cannot supersede local zoning decisions. However, the state does have the authority to establish the procedures and standards that govern the rezoning process, and it has done so.

Under the state Zoning Procedures Law, local governments that exercise zoning powers must adopt standards governing the exercise of zoning power.²² The Zoning Procedures Law also requires that local governments adopt policies and procedures for the calling and conducting of zoning hearings.

The largest urbanized counties have additional requirements under the Steinberg Act. Counties with populations of 625,000 or more and municipalities within such counties that have a population of 100,000 or more must consider six specific standards, along with others they may have adopted. They must consider whether:

1. The proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property.
2. The proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property.
3. The property to be affected by the zoning request has a reasonable economic use as currently zoned.
4. Rezoning will result in a use that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
5. The rezoning request conforms to the policy and intent of the locally adopted land use plan, assuming there is one.
6. There are other existing or changing conditions affecting the use and development of the property that give grounds for approval or disapproval of the request.²³

For those urbanized counties and municipalities that qualify, the Steinberg Act also requires an analysis of the zoning impacts and a record of the zoning review.²⁴

Q5: Is it true that it is illegal to “down-zone” — that is, to lower the density or change the permitted use of property in such a way that the market value might be lowered?

A5: It is not true.

Down-zoning usually involves changing a zoning classification—say, from commercial to residential use or from higher- to lower-density residential—but it can also include removing uses from an existing zoning classification.

For example, a community planning for the redevelopment of its highway corridors might want to reduce the amount of commercially zoned property elsewhere because it already has an excess of failed or declining shopping centers. It might choose to move some commercially zoned properties to residential or mixed-use classifications so that it can concentrate commercial land use at major road intersections.²⁵

Q6: Can local governments require that new developments meet standards for adequate public facilities?

A6: There is neither legislation nor case law that directly answers the question. The reigning theory for home rule authority, however, is that local governments can undertake any growth management practice based on health, safety, general welfare and—if applicable—the guidelines set out in their comprehensive plans.

Within the context of a comprehensive plan, local governments may set requirements for adequate public facilities. They may also stage development to coincide with the construction of adequate facilities. One tool used to stage development is an adequate public facilities ordinance, which conditions development approval on the availability and adequacy of infrastructure such as water, sewer and roads. Under such an ordinance, a developer must demonstrate that the required levels of public facilities are, or will be, available to the proposed project before receiving a permit. The developer can also choose to improve public facilities to meet the standard.

Adequate facilities ordinances distinguish between approval of a development and the timeline for allowing the development to be built. A property owner thus may have a right to develop but be constrained from exercising it at a pace that outruns the local government’s ability to provide infrastructure or services.

Q7: Can a local government turn down a rezoning solely on the basis that it will increase traffic congestion?

A7: Local governments do better to consider traffic one factor in a zoning decision rather than the sole determining factor. The consideration of traffic, however, generally has a sound basis. This is particularly true when communities have adopted rezoning standards that reference the availability or adequacy of public facilities and services.²⁶ The more systematic a jurisdiction is in planning for expected development, the stronger the foundation it will have for decisions based on an analysis of impacts on services and infrastructure.

Q8: Can local governments enter into agreements with developers that provide for developers to install or pay for off-site infrastructure?

A8: Local governments can attach conditions to rezoning that are designed to offset negative effects on neighboring properties. For example, a local government might approve rezoning for a new subdivision but also require that the developer help pay to improve a road leading to the new subdivision so that it can handle additional traffic. Rezoning that is subject to conditions that apply specifically to one property and not to other, similarly zoned properties is called *conditional zoning*. It is often used to protect the interests of neighboring businesses, residents, or land owners. A developer's obligations may be incorporated in an agreement stipulating development impact fees. Such agreements often involve the financing of infrastructure.²⁷

Conditional zoning is valid as long as it does not become illegal *contract zoning*. That's traditionally been defined as an agreement — express or implied—between a developer and a local government that establishes a quid pro quo for rezoning, a practice which is viewed with disfavor because of the inherent risks of fraud, corruption, and improper influence.

Q9: Is it legal to impose a (re)zoning moratorium?

A9: Yes, as long as you meet conditions outlined by the courts.

A moratorium is typically a temporary ban on applications for re-zonings or permits. For example, a moratorium might be imposed to prevent a sudden rush of rezoning applications while adoption of a new zoning ordinance is being considered.

A moratorium must explicitly address at least three issues: first, the public purpose that necessitates its adoption; second, the term of its duration; and third, the standards governing exceptions, if exceptions are authorized.

The validity of a moratorium is based on its reasonableness: Do the interests of the general public require the protection of the moratorium? Is the moratorium reasonably necessary for the accomplishment of that goal and not unduly oppressive?

Changing Needs and the Changing Face of Growth

Planning, by definition, is about laying the groundwork for the future. No one can know with certainty what the future holds, but communities can take advantage of a wealth of experience and information about population and demographic trends, economic conditions, and other factors. These all affect the likely demand for various kinds of housing, the commercial development that follows housing, and the location and travel preferences of future residents. Following is a brief overview of some factors to consider.

Demographic trends

Georgia is in the vanguard of areas that will absorb an outsized share of the phenomenal growth expected in the United States. The U.S. population passed 300 million in 2006 and is expected to reach 400 million before mid-century. This rapid growth will trigger a building boom like no other. According to an analysis by Dr. Arthur C. Nelson, a pre-eminent planning researcher, about 60 million housing units will be needed nationally by 2030, either as additions to the country's housing stock or as replacements for aging units. In all, roughly half the buildings that will be needed in the U.S. by 2030 do not yet exist. The figure rises to two-thirds by 2050.

The Southeastern states are expected to absorb half the projected population growth. Metro Atlanta is expected to grow beyond 9 million residents by 2040, more than doubling the region's housing stock along the way. Between new and replacement dwellings, the region likely will add 2.4 million housing units in that period. At the same time, millions of square feet of retail buildings, which typically are built for a lifespan of less than 20 years, will require redevelopment even as new retail is added.

The demographic changes under way are as profound as the overall growth rate. In 2007, the proportion of single-person households surpassed the share of households with children, a dramatic change from 50 years ago. In 1960, just 13 percent of households had only one person, while 48 percent had children. By 2040, only 27 percent of households will have children, while nearly a third will be single-person households. Developers anticipating housing demand already have noted that households with kids will represent only 13 percent of the growth in home-seekers.

The growth in single-person and childless households will be due in part to the aging of the baby-boom population. The Atlanta Regional Commission estimates that the population of metro Atlanta-area residents aged 60 and older will more than triple between 2000 and 2030, from about 400,000 to nearly 1.3 million. They may want and need communities far different from the suburban cul-de-sac communities typical of recent residential development.

For example, it's estimated today that nearly a third of metro Atlantans over 65 do not drive. This suggests that a growing population of older adults will be looking for homes in communities where basic services such as grocery stores and medical offices are close enough to walk to or easily accessible via public transportation. Accommodating the aging population will probably also mean greater attention to roadway and pedestrian safety in community and transportation system design.

Energy issues

Most communities in Georgia have grown significantly since the state's economy began to boom after World War II. This growth occurred in an era of relatively cheap oil. Given inexpensive gasoline, development could—and did—often ignore driving distances. When both land and gas prices were low, it made economic sense to spread out communities and let individuals cover the distance in private automobiles.

Today both urban land and oil are significantly more expensive, and while prices may fluctuate, the overall trend seems unlikely to change. Given emerging economies in India, China, and other Asian countries, for example, increased prices for oil and gas seem likely. At the same time, concern over climate change may result in measures that discourage the burning of carbon-based fuels such as gasoline.

Finally, Georgians—especially those living in the metro Atlanta region—are looking for opportunities to reduce time spent driving. Developments that make commuting and running daily errands easier, more efficient, less expensive, and less time-consuming are likely to be necessary as well as desirable.



Techniques for Getting Growth Where You Want it

Development often follows the path of least resistance, springing up where land is cheap, regulations simple and opponents few. It is the job of officials overseeing planning and development to work with citizens and stakeholders to develop a vision for growth and then to align development rules and public investments with those goals. In the end, it should be easier for developers to build what the community can support and harder to build in ways that bring unacceptable economic, social or environmental costs.

A framework for growth: centers and corridors

Taken together, demographic, energy, and climate change trends suggest that proximity to jobs, services and recreational opportunities will become increasingly important to people and businesses looking to relocate. Putting more people in higher density residential housing closer to activities (mixed-uses) is one effective way to do that. Higher-density forms of development, with more townhouses and multifamily housing and a greater mix of land uses, will likely become more common. But where should such growth be directed?

Some communities are already getting ahead of these trends by identifying centers—town, job and activity centers—and transportation corridors that can, or ought to, accommodate such growth. Centers include the existing downtowns of cities and towns as well as activity or job centers such as the Perimeter Center area, the area around Hartsfield-Jackson Atlanta International Airport, or the Cumberland-Galleria district. Centers may also be MARTA rail stops. They can be as large as Buckhead or as small as the Marietta town square.

Corridors include those highway and transit routes that already are magnets for development, such as Peachtree Street or Georgia 400. They also include roadways with thousands of acres of underused land and commercial strips such as Buford Highway, Tara Boulevard, and Memorial Drive. Most cities and counties have more than one example.

The Atlanta Regional Commission (ARC) has adopted development and transportation plans that emphasize centers and corridors, as shown in its Unified Growth Policy Map. The commission forecasts substantial development in town and activity centers as well as “mega-corridors” along the interstate highway system. Not all future development will happen in these areas, certainly, but there are many advantages to directing growth to centers and corridors.

Research shows that while centers and corridors take up only about 10 percent of the land area in the 13 counties that make up the core metro Atlanta region, they can accommodate a large percentage of future population

growth. In fact, computer modeling has demonstrated that metro Atlanta can accommodate 2.3 million new residents, *reduce* time stuck in traffic, and save 100,000 acres of open space, all by accommodating the likely demand for housing, retail and offices in higher density development focused on centers and corridors.

Of course, higher density development will need to be closely coordinated with transportation improvements, including a better-connected road network, expanded public transportation and improved pedestrian access.

The information that follows presents a conceptual framework and techniques for managing change to the benefit of the entire community. They are not one-size-fits-all. Every place has its own history, opportunities and challenges. While the over-arching principles and legally permissible techniques may be held in common, each community must choose strategies that work for its local circumstances.

Georgia law and modern-day planning practices offer a range of strategies and tools for getting growth to go where communities want it. The overview of strategies included here is organized according to three over-arching principles:

1. Encourage dense development where it makes sense.
2. Make the most of existing places through redevelopment.
3. Align capital investments with growth policy to make the most of infrastructure investments.

In any community, there will be zoning districts appropriate for higher-density development, some that will remain low-density residential areas, and others where there should be little or no development. For the foreseeable future, however, growth and development of some sort are inevitable for many communities, and the pressures of growth will cause developers to propose higher-density development throughout the region. Current and future residents will be best served if communities take the time and trouble today to involve all the community—residents, businesses, land owners and other stakeholders—in planning for the inevitable and designating where and how they want their communities to grow.

Community involvement is paramount

Plans are no good without a commitment to implement them. While commitment from elected officials is essential, official intention is unlikely to be sustained without support from citizens who feel some ownership of the visions and plans for their neighborhood and town.

The first step toward successful involvement is a process for meaningful public participation up front. The best time to engender support for good redevelopment is during comprehensive planning before the discussion of specific plans. Inevitably, though, major development proposals will arise that have not yet been the subject of a focused community planning effort. In these cases, it will be doubly important to ensure that residents have a chance

to hear about the proposal and discuss likely impacts and potential mitigation. Ideally, direct discussions would take place between developers and neighborhood residents before plans are set and a rezoning hearing is held.

In such cases it is also important for local governments to examine whether a comprehensive or master plan for the area is warranted, and if so, to establish a process for creating it. This gives citizens and government time to think ahead, identifying likely outcomes and needed improvements. Policy can be set as to who should pay—developers, the community, or a combination of the two—for infrastructure improvements.

Local governments such as Fulton County, Forsyth County, DeKalb County and the City of Roswell have all added steps to their rezoning processes that create opportunities for citizen participation. These include mandatory meetings with affected neighborhoods, informal consultations with neighborhoods, and the submission of public participation plans as a condition of accepting a zoning application. While at first glance such requirements seem to extend the time involved in the process, they often anticipate and shorten disagreements that would otherwise not arise until the main rezoning process.

Decide what you want, and make it easier to do

It's worth saying again: Development often follows the path of least resistance. Adopting clear plans and guidelines for the location and form of desired development helps reduce uncertainty for all, especially if zoning and development codes are changed to support comprehensive plans.

Suppose, for example, that a community wants to promote mixed-use developments in selected areas. It might amend its zoning regulations to allow mixed-use development “by right” when in accordance with approved plans. That way, if a developer proposes a project that is consistent with the overall plan for the area, no additional approval is needed. Such a system requires, however, that planners set in advance the acceptable specifications for intensity, or density, of development as well as the desired or allowable mixture of uses.

Why go to the extra effort?

Today's conventional zoning practices strictly separate uses. Putting apartments above shops, for example, typically requires a series of variances or other special exceptions. Even sought-after, well-designed, mixed-use developments in appropriate areas are then subject to time-consuming, costly, and uncertain approval processes for each variance, exception, or special permit—a powerful deterrent. If the community has already thought through the implications of higher density and mixed uses and decided where they should go, there will be fewer lengthy and difficult case-by-case, discretionary decisions.

Similarly, a community might want to reduce the density of development immediately outside the centers and corridors where growth will be directed. If zoning outside the targeted centers and corridors remains too permissive, development may drift there instead, diluting efforts to concentrate development where it is most appropriate.

It's easiest to focus development when land use plans and zoning regulations work together to achieve overall goals.

Overlay Zones

An *overlay zone* or *district* is created when local governments apply special zoning and development rules to a targeted area, or district. The new rules are superimposed, or overlaid, on the existing zoning.

For example, a local government wanting to preserve its historic downtown might create an overlay district that sets out special rules for the treatment and preservation of historic buildings in a carefully defined district that encompasses its old downtown. Builders and developers working in the historic district would be required to follow regular zoning regulations *and* the additional historic overlay district rules.

Or, the overlay district might apply rules that supersede certain zoning provisions. Suppose for example that a town's zoning code carefully segregates residential, retail, and office uses. If the town decides, however, that it wants to create a district where it's OK to build offices and residences over street-level retail businesses, it might create an overlay district that suspends the prohibition against mixing uses. Endless other variations are possible. Overlay districts might dictate building design, require special landscaping, or alter parking requirements.

In brief, overlay districts create areas where the rules guiding development are a mix of the underlying, regular zoning and special provisions superimposed on a clearly demarcated area.

THE LIVABLE CENTERS INITIATIVE

The Livable Centers Initiative (LCI) was created by the Atlanta Regional Commission as a way to encourage local entities to think creatively about how they plan for and focus their growth. A local government, community improvement district, or other qualified entity can compete for money to create innovative plans for a variety of projects, such as redeveloping a town center, road corridor or strip shopping area; focusing development around transit stations; or converting commercial-only areas into live-work-play districts. Winning jurisdictions with successful plans are then eligible to apply for grants to implement their plans.

The LCI program encourages localities to plan ways to redevelop existing town centers, create new walkable Main Streets, or retrofit the numerous suburban business districts that have sprouted

up around highway interchanges. The goal: Make more destinations easily accessible by transit, driving, biking or walking.

One such plan calls for turning Perimeter Center—a suburban mall and office center with three MARTA rail stations—into a transit village. Another calls for building mixed-income housing on what had been parking near an underused MARTA station in Decatur. In Midtown Atlanta near the Georgia Tech campus, extensive new development integrates offices and housing.

The LCI program has expanded to cover aging commercial strips as well as town centers.

More on the LCI program can be found at www.atlantaregional.com > Land Use > Livable Centers Initiative.

Methods for getting growth where you want it

When designating targeted development areas, communities sometimes opt to focus on existing places. Examples of such areas include older town centers, down-at-the-heels neighborhoods, dead and dying commercial strips, *brownfields* (abandoned commercial and industrial sites), or pockets of land that remain undeveloped or underdeveloped. Such sites are attractive because they have infrastructure—roads, sewer, water lines, schools, police and fire stations. They also represent a tax base in need of rejuvenation and are likely to be close to jobs, shopping, and entertainment. In addition, focusing development on areas already within the urban sphere helps preserve open land. It reduces development pressure on natural areas and other open spaces outside the urban area.

But redevelopment can come with a host of challenges, too. Regulations may hinder reuse. Residents and neighbors may be leery. Environmental contamination may have to be cleaned up. Often, regulations and public investment policies make it easier simply to go to a *greenfield* (land not previously developed) and start fresh. Local governments, however, can make it easier to redevelop.

1. **Establish an urban redevelopment agency and adopt a redevelopment plan.** State law specifies options for creating redevelopment agencies, and it also establishes content requirements for urban redevelopment plans.²⁹ An urban redevelopment agency can undertake redevelopment projects, sell and lease property, furnish public buildings and improvements, provide assistance, issue general obligation and revenue bonds, contract for federal assistance, and levy taxes and assessments for public improvements.³⁰ Citizens also may prepare and submit urban redevelopment plans for consideration.³¹
2. **Forge public-private partnerships for redevelopment.** There are several ways that local governments and urban redevelopment agencies can cooperate with merchant groups and individual property owners to meet redevelopment objectives. They include streetscape programs initiated by the local government, by property owners, or a combination of both; joint funding of traffic signals, access roads, and parking lots or decks; joint provision of stormwater treatment and management facilities; and the co-location of public and private facilities.
3. **Coordinate with and tap the expertise of nonprofit community organizations.** Some of Georgia's larger urban communities have active community development organizations and community-based housing organizations. Involving nonprofits in revitalization efforts can broaden support for redevelopment and so increase prospects for success.

REDEVELOPING INDUSTRIAL BROWNFIELDS

Areas that were previously used for industry or commerce and which have since been abandoned are often referred to in planning circles as brownfields. According to the EPA, brownfields are "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant." Cleaning up and reinvesting in these properties also has a secondary environmental benefit. It reduces development pressure on undeveloped, open land.

Brownfields represent untapped development opportunities and are often ideally located. In some cases, they pose impediments to community revitalization in their current condition. Local governments can pursue federal and state programs to identify, clean up, and reuse brownfields for good quality growth projects.³² The Atlantic Station project in Midtown Atlanta converted a 138-acre former steel mill site that was contaminated with heavy metals and other industrial sludge into one of the most vibrant districts of the city. In doing so, it removed an environmental hazard, recycled centrally located urban land and generated millions of dollars for the city's tax base.

4. **Provide an ombudsman or economic development facilitator.** Jurisdictions that are serious about attracting high-quality redevelopment must create opportunities and find willing developers. This generally means providing staff resources through an economic development department, redevelopment agency, development authority, or other institutional bureau with staff.

In Decatur, a designated city staff member acts as the liaison with the developer and helps to coordinate all activity at the local government. Roswell has done something similar for developers with projects in its Midtown Roswell redevelopment overlay district. Staff works with the applicant and departments having development review authority to make sure that the permitting process does not become a barrier.



Atlantic Station, Atlanta

Streamlining the Regulatory Process to Aid Redevelopment

Communities have a strong interest in ensuring that development happens in a way that benefits current and future generations, but an overly complex or confusing regulatory process can thwart that goal. Streamlining can help:

- > **Coordinate and/or consolidate departmental reviews.** Good development projects can be hampered or killed by delays caused by uncoordinated regulatory reviews. One person, department or entity should be responsible for ensuring that each applicant gets a coordinated and timely response to development applications. Some local governments accomplish this with inter-departmental review teams that meet regularly.
- > **Specify a maximum review time for redevelopment projects.** The amount of time the jurisdiction has to conduct its review of a redevelopment proposal must be reasonable and cannot be unlimited. A set number of days for staff review should be specified. Additional procedures should be specified for reviews that require extended periods of time.
- > **Anticipate environmental issues.** In cases where an environmental impact review is specified by state or federal law, anticipating those requirements and satisfying them prior to the filing for local approval can go a long way toward speeding up approval for good developments. Developers should be given information on these requirements and then work with local governments to ensure that the required reviews occur.

Aligning capital investments with growth policy to make the most of infrastructure

Public expenditures on infrastructure such as streets, highways, water and sewer systems, lighting, schools, and other civic buildings constitute a significant share of public spending each year. Local governments may find themselves juggling the need to maintain existing facilities with the need to support development in new areas where they may not have anticipated growth. Some governments inadvertently undermine existing areas by moving government facilities—administrative and agency offices, post offices, or schools—away from established centers or corridors into previously undeveloped areas.

Capital spending is a powerful way to reinforce development policies, shape growth and provide sound stewardship of public dollars. A number of studies have shown that the cost of providing public infrastructure and delivering services can be reduced through better planning. A 2004 study by the Brookings Institution, “Investing in a Better Future,” summarized a range of studies showing that the use of more compact development patterns in appropriate places can save up to 12 percent in outlays for road building, water and sewer services, and annual operations. A recent study in Maryland found that taxpayers are paying twice what they did 15 years ago to transport suburban and rural students by school bus because buses are going 25 percent farther while carrying only slightly more students.

Even when jurisdictions save money by building in more compact patterns, however, it can be difficult to find the money to improve existing infrastructure and expand services to new development. Below are some options for raising that revenue, as well as other ideas on how to align investment decisions with growth policy.

TEN PRINCIPLES FOR REINVENTING AMERICA’S SUBURBAN BUSINESS DISTRICTS

Redevelopment is a major concern for many older, or inner-ring, suburbs. Much of their commercial space was developed during a major growth spurt in the 1970s and ‘80s, and much of it now needs improvement or replacement. The City of Roswell recently created a redevelopment element for its comprehensive plan based on the Urban Land Institute’s Ten Principles for Reinventing America’s Suburban Business Districts:

1. Understand your position in the market.
2. Build community support.
3. Develop a vision and a plan.
4. Stress results over regulation.
5. Break up the super blocks and optimize [street] connectivity. (A super block is a much-larger-than-usual city block, often surrounded by wide, relatively high-speed streets.)
6. Embrace mixed use.
7. Honor the human scale by creating a pedestrian-friendly place.
8. Think transit—think density.
9. Create a public/private partnership.
10. Share and manage parking.

1. Explore whether it’s appropriate to set up a tax allocation district, community improvement district, or other special assessment district to help pay for improvements necessary to make redevelopment happen.

There are a variety of ways to pay for local infrastructure improvements in centers and corridors, and they include a growing trend toward establishment of tax allocation districts pursuant to Georgia’s Redevelopment Powers Law.³³ Experience with community improvement districts (CIDs) is also increasing in the region.³⁴ In addition, other, lesser known opportunities exist, including the financing of infrastructure within designated urban redevelopment areas³⁵ and special districts.³⁶

Tax Allocation Districts

Tax allocation districts (TADs) are a tool for promoting redevelopment in overlooked or declining areas.

Allowed by Georgia statute since 1998 and given greater applicability in 2003, TADs are meant to spur private investment. They do that by paying for public improvements needed to enable or enhance redevelopment in areas that might otherwise remain neglected. TADs allow a jurisdiction to apply the increase in property tax revenue that follows redevelopment to repay investments used to encourage or support the redevelopment. Typically, a city or county will sell bonds to pay for road or intersection improvements, streetscape enhancements, water and sewer upgrades and the like within the target area. It pays off the bonds with the increased property tax revenue that results from higher property values. TADs have spurred successful projects like Atlantic Station in Midtown Atlanta and East Point’s Camp Creek Marketplace. A TAD will also fund public improvements along Atlanta’s proposed BeltLine rail and park corridor.

TADs are attractive for a number of reasons. First, they can help bolster a stagnant or declining tax base. A 2007 study commissioned by the Livable Communities Coalition found that property values in TAD-assisted Atlantic Station had gone up an average of 65.4 percent per year since 1999 and that values in East Point’s Camp Creek district have gone up an average of 54.3 percent per year. TADs also can make it possible to redevelop blighted and abandoned areas. In some instances, they may also help cities and counties get ahead of challenges associated with redevelopment. DeKalb County, for example, has sought to use a TAD to improve public facilities—roads, sidewalks, parks, etc.—in the area surrounding the intersection of North Druid Hills and Briarcliff roads, an area expected to see significant redevelopment.

Amendments to the state’s Redevelopment Powers Law in 2003 expanded the potential use of TADs. Once designated for blighted or obsolete areas only, TADs are now permitted for “any geographic area designated within the comprehensive plan of a political subdivision for redevelopment which has previously been developed for commercial, residential, industrial, office, or [similar uses] in which the current condition of the area is less desirable than the redevelopment of the area for new commercial, residential, industrial, office, or other uses, or a combination of uses, including the provision of open space or pedestrian and transit improvements, and any geographic area that is adversely affected by airport or transportation-related noise or other environmental degradation, contamination, or other environmental factors which the political subdivision has determined to be impairing or retarding the redevelopment of the area.”⁴¹

More information on the financial performance of TADS can be found at: www.livablecommunitiescoalition.org > Services > Studies & Reports > Survey and Analysis of Tax Allocation Districts.

2. Locate city and county civic buildings within centers and corridors rather than in fringe locations. Local elected officials should recognize that public investment in civic buildings, when put in the right place, can act as a catalyst and encourage private redevelopment.³⁷ School boards often find it easier and cheaper to build new schools in outlying areas rather than renovate or expand existing schools. The same is sometimes true for city halls, county administrative annexes, libraries, cultural centers, and other public buildings. If local governments wish to revitalize existing centers and corridors, however, they can send a strong signal when they make decisions regarding public buildings.

3. In allocating federal housing and community development block grant funds, give priority to development in established centers and corridors. Many cities and counties in Georgia receive federal block grants through Community Development Block Grants (CDBG) or the HOME Investment Partnerships Program. Local officials have some discretion in allocating such resources, and they can consider targeting such funds within designated centers and corridors.³⁸

Sewer Versus Septic: A Major Issue for North Georgia

Of the largest 15 metro areas in the nation, the Atlanta region has the highest percentage of residents with homes on septic systems. More than 1 million metro residents have homes that rely on septic systems—that's one in four households. These septic systems have implications for the region's limited water supplies.

The Atlanta region relies on surface water for 98 percent of its water supply, and the Chattahoochee River and Lake Lanier supply much of that. No other metro area the size of Atlanta relies on a river as small as the Chattahoochee.

Septic systems can have an adverse impact on downstream river flows during droughts and dry times, when river flows are especially important. That's because sewer systems recycle water much more quickly than do septic systems. It's estimated that a residence on a sewer system returns approximately 85 percent of the water it uses to the river via wastewater treatment plants. (The rest is used outdoors). A house on a septic system, on the other hand, puts 100 percent of the water it uses into the ground. While much of this water eventually migrates underground to area streams and rivers, it does so gradually, and the delay can pose problems for downstream areas during dry times.

The potential for failures of aging septic systems can also pose an environmental and public health problem. Some local governments are attempting to connect subdivisions on septic tanks to sewer systems, but this is very costly. Not all have the necessary resources. Some argue that the North Georgia region would be far better served if local governments in the Atlanta region encouraged more residential growth in areas that can be served by sanitary sewers and less in areas that must depend on septic systems.

Of the largest 15 metro areas in the nation, the Atlanta region has the highest percentage of residents with homes on septic systems. More than 1 million metro residents have homes that rely on septic systems. Implications for the region's limited water supplies are significant.

The region relies on surface water for 98 percent of its water supply, and the Chattahoochee River supplies much of that. No other metro area the size of Atlanta relies on a river as small, and septic systems have a disproportionately large impact on downstream water flows. That's because septic systems, unlike sanitary sewer systems that treat wastewater and then recycle it into rivers, do not quickly return measurable amounts of water to streams and rivers.

Permissive septic tank rules have allowed developers to take advantage of "rural residential" zoning to build vast subdivisions away from sewer systems (as well as other services), with the result that one in four households in the Atlanta region relies on septic systems for wastewater treatment.

Additionally, the potential for widespread failures of aging septic systems is a serious environmental threat. Some local governments are trying to avert the damage by spending large sums to connect septic-tank subdivisions to sewer systems; others do not have the same resources. Some argue that local taxpayers and the region as a whole would be far better served by policies that restrict the growth supported by septic systems.

THREE TOOLKITS FOR QUALITY GROWTH

Regional, state, and national agencies have developed materials that explain and illustrate innovative ways to grow. Among the very best:

The Georgia Department of Community Affairs has developed a *Quality Growth Toolkit* for local officials. The toolkit Web site has practical planning guides as well as links to technical assistance and financial resources for community planning. Find it online at: <http://www.georgiaqualitygrowth.com> > Toolkit of Best Practices.

The Atlanta Regional Commission has created the *Community Choices* toolkit, which includes units on "Aging in Place," "Bicycle and Pedestrian Planning," "Context Sensitive Street Design," "Crime Prevention and Safety through Community Design," "Fiscal Impact Analysis," "Green Design," and more. Find it online at www.atlantaregional.com > Local Government > Community Choices.

The EPA and the Smart Growth Leadership Institute in 2008 released a *Smart Growth Implementation Toolkit*, which includes guides to auditing land use policies and development codes for their effectiveness, a project scorecard, and other resources. Online at <http://www.smartgrowthtoolkit.net>

FOR MORE IDEAS: A pair of helpful manuals

The EPA has sponsored publication of two popular policy manuals, each of which offers 100 policies for implementing the 10 principles endorsed by the Smart Growth Network. Both books are free:

Getting to Smart Growth: 100 Policies for Implementation
Download a pdf version at: <http://www.smartgrowth.org/pdf/gettosg.pdf>

Getting to Smart Growth II: 100 More Policies for Implementation
Download a pdf version at: <http://www.smartgrowth.org/pdf/gettosg2.pdf>

Copies are also be requested by e-mail at smartgrowth@epa.gov or by phone through the EPA's Development, Community, and Environment Division at 202-566-2878.

Density and Design: Creating People-Friendly Places

With or without a plan to do so, north Georgia is becoming denser as its population grows, and the region is likely to continue to do so. Increased density brings opportunities, but capitalizing on them requires special attention to design. Done right, the result can be vibrant neighborhoods that offer appealing options in housing, transportation, shopping, dining, recreation and more.

Measuring Density

Residential density is usually described in terms of the number of residential (or dwelling) units per acre, a measurement that is sometimes abbreviated du/ac. *Gross density* is the total number of residential units per acre of land in a project. *Net density* is the number of residential units per acre after subtracting the acreage devoted to roads or other uses.

The density of any development can also be measured as a ratio of the building square footage to the total square footage of the tract of land. That ratio is called the *floor area ratio*, or F.A.R. (*pronounced by the initials "F-A-R," not "far"*). A two-story building covering exactly half a tract of land would have an F.A.R. of 1.

What Does it Look Like?

What does good development look like? The following Web sites illustrate and explain:

The Livable Communities Coalition features examples of local, regional, and national smart growth communities and compact development on its Web site, www.livablecommunitiescoalition.org. Speaking engagements on the principles of good growth can also be arranged by calling the Coalition at 404-214-0081.

Smart Growth Illustrated, compiled by the EPA's Office of Economic and Community Development, offers links to projects that illustrate each of the 10 principles embraced by the Smart Growth Network. <http://www.epa.gov/smartgrowth/case.htm>

This is Smart Growth, a booklet commissioned by the EPA that illustrates smart growth principles with examples from rural, suburban and urban areas. www.epa.gov/smartgrowth > Publications.

The Affordable Housing Design Advisor site contains a gallery of 80 projects showing how affordable housing was integrated successfully with other housing in a variety of settings. It also includes contact information for the project developers, designers, and others. <http://www.designadvisor.org/>

Traditional Neighborhood Developments by State, compiled by The Town Paper, contains links to web sites describing New Urbanist projects in each state. New Urbanist projects include relatively compact developments that offer a mix of housing, use traditional neighborhood design principles, and mix retail services with housing. www.tndtownpaper.com/neighborhoods.htm.



Vickery, Forsyth County

What's old is new again: The revival of traditional neighborhood development

Communities all over the country are rediscovering the traditional notion of the neighborhood. Before single-family subdivisions became the norm in the decades following World War II, neighborhoods often had a mix of housing types surrounding a core of neighborhood-serving retail, and some of that retail development had housing above. This approach has been revived in recent years, most prominently by architects and urban designers practicing what has come to be known as New Urbanism.

Since the founding of this school of urban design and architecture in the early 1990s, practitioners of New Urbanism have offered traditional neighborhood development as an alternative to conventional subdivision and strip-mall suburban development. A traditional neighborhood development usually is oriented around a center that includes a public space and commercial enterprises. It also often has:

- An identifiable edge, ideally no more than a five minute walk from the center.
- A mix of activities.
- An interconnected network of streets, usually laid out in a grid pattern.
- Public and open spaces, including parks, plazas and squares.

Uses are mixed within the project, and often within buildings as well. There is typically a mix of housing types offered at varied prices. Lofts over stores or live-work units may be part of the mix of housing.

KEY ELEMENTS OF NEIGHBORHOOD DESIGN

New Urbanism proponents Andres Duany and Elizabeth Plater-Zyberk have cited the following as key elements of neighborhood design:

1. The neighborhood has a discernible center. This is often a square or a green and sometimes a busy or memorable street corner. A transit stop would be located at this center.
2. Most dwellings are within a five-minute walk of the center, an average of roughly one-quarter mile.
3. There are a variety of dwelling types — usually houses, row houses, and apartments — so that younger and older people, singles, families, the poor, and the wealthy may all find places to live.
4. At the edge of the neighborhood, there are shops and offices of sufficiently varied types to supply the weekly needs of a household.
5. A small ancillary building or garage apartment is permitted within the backyard of each house. It may be used as a rental unit or place to work (for example, an office or craft workshop).
6. An elementary school is close enough so that most children can walk from their homes.
7. There are small playgrounds accessible to every dwelling—not more than a tenth of a mile away.
8. Streets within the neighborhood form a connected network, which disperses traffic by providing a variety of pedestrian and vehicular routes to any destination.
9. The streets are relatively narrow and shaded by rows of trees. This slows traffic, creating an environment suitable for pedestrians and bicycles.
10. Buildings in the neighborhood center are placed close to the street, creating a well-defined outdoor space.
11. Parking lots and garage doors rarely front the street. Parking is relegated to the rear of buildings, usually with back alley access.
12. Certain prominent sites at the termination of street vistas or in the neighborhood center are reserved for civic buildings. These provide sites for community meetings, education, and religious or cultural activities.

A worthy example in Atlanta is Glenwood Park, developed by Green Street Properties on the site of a former concrete recycling facility. On a compact site of 28 acres, Glenwood Park combines single-family homes, all of which meet standards for environmentally friendly building; condominiums overlooking a central square; row houses; and a large park with pond that doubles as eco-friendly storm-water system. See more online at www.glenwoodpark.com.

Other noteworthy examples of traditional neighborhood design include Denver's Highlands Garden Village, online at: www.epa.gov/smartgrowth > Publications > National Award for Smart Growth Achievements, 2005 Winners, and Gaithersburg, Maryland's Kentlands, online at www.kentlandsusa.com.

Reclaiming suburban greyfields

Undeveloped tracts of land are sometimes referred to as greenfields. Abandoned commercial or industrial sites may be called brownfields. And

under-used or obsolete malls and shopping centers are sometimes referred to as *greyfields* because so much of the land is under asphalt. A growing number of communities are working to redevelop such sites and many of them are considering mixed-use neighborhoods as replacements. The Congress for the New Urbanism recommends these principles for remaking greyfield sites:

- Evolve the site from a single use district into a district with a mix of sub-districts.
- Establish a street pattern.
- Reorient activity to face the street.
- Connect with the surrounding community.
- Integrate multiple uses.
- Design for human scale.
- Include housing.
- Customize to fit local needs.

The publication *Malls into Main Streets: A Manual for Converting Dying Malls into Vibrant Communities* provides lessons learned from six detailed case studies where an under-performing shopping center was turned into a viable, mixed-use neighborhood. By exploring key criteria such as market conditions, anchor tenants, ownership, site conditions, financing, and community involvement, the guide reveals what makes a greyfield revitalization project successful. Find it online at www.cnu.org.

Belmar, the redevelopment of a defunct mall in Lakewood, Colorado, is one prime example. One of the most sweeping greyfield transformations in the nation, Belmar is a mixed-use redevelopment of the failing Villa Italia mall in Colorado's fourth-largest city. Composed of 23 city blocks (104 acres), Belmar has become a bustling, vibrant downtown district for Lakewood, which had no such district before the renovation began. Belmar represents the cumulative will of the city of Lakewood and its residents, who clamored for a downtown and an identity for the city. Belmar was the winner of a 2005 Smart Growth Award from the EPA. Read more online at www.epa.gov/smartgrowth > Publications > National Award for Smart Growth Achievements, 2005 Winners.

Transit-Oriented Development

Many communities that are served by high-capacity public transportation such as subways, light rail or bus rapid transit are working together with transit agencies to encourage transit-oriented development, or TOD. TOD is often defined as higher-density, mixed-use development within walking distance—typically a half mile or less—of rail or bus rapid transit stations.

Research has shown that residents in a truly walkable TOD take significantly fewer car trips than those in conventional, automobile-oriented areas and about 50 percent fewer trips than the Institute of Transportation Engineers (ITE) guidelines would predict. ITE guidelines are the standard used by most jurisdictions around the country to determine likely traffic impacts of development.

PUBLIC SPACES

Often missing in suburban-style, automobile environments, public spaces are essential to creating livable, higher-density neighborhoods. They can take many forms, including plazas, squares, large or small parks, fountains—and, of course, streets themselves.

In evaluating thousands of public spaces around the world, Project for Public Spaces has found that successful ones have four key qualities:

- They are accessible.
- People engage in activities there.
- The space is comfortable, appealing, and welcoming.
- They are sociable places—ones where people go to meet each other and where they take visitors.

Explore Project for Public Spaces' Web site to see dozens of examples of innovative, interesting treatments of public spaces that succeed in creating a sense of place and community: http://www.pps.org/topics/gps/gr_place_feat.

A 2007 study measured the actual transportation performance of 17 TOD projects in four metro areas—Philadelphia/Northeast New Jersey; Portland, Oregon; metropolitan Washington D.C.; and the East Bay of the San Francisco Bay Area. Car trips by TOD residents in Washington, D.C., were nearly 60 percent below the ITE predicted peak rate. In Portland, Oregon, the reduction was nearly 50 percent below that predicted by the ITE manual.

G.B. Arrington, an expert on and longtime advocate of TOD, says that it is important to make the distinction between transit-oriented development and transit-adjacent development. Merely building conventional automobile-oriented development—shopping centers, apartment complexes or office parks surrounded by parking—near a transit station usually fails to provide the sort of walkable environment that makes people more likely to leave their cars parked more often.

The national Center for Transit-Oriented Development says that TOD ought to meet several performance goals:

- Increase location efficiency so that people can walk, bike or take transit.
- Boost transit ridership and reduce automobile traffic.
- Provide a rich mix of housing, shopping and transportation choices.
- Generate revenue for the public and private sectors and provide value for new and existing residents.
- Create a sense of place.

TOD allows a jurisdiction to accommodate a greater share of its growth in a smaller footprint. That helps preserve open space and lower-density neighborhoods, saves on infrastructure costs, and builds the local property tax base. The new transit riders provide additional fare box revenue to the local transportation agency and increase community vitality.

Over the last 30 years, Arlington, Virginia, has created all those benefits and more as it developed along the Metro rail line that connects Arlington to

Washington, D.C. The government of Arlington County became an early proponent of TOD in the 1970s as a strategy that could be used to retrofit the three-mile long Rosslyn-Ballston Corridor in order to reverse significant declines in both population and commercial activity. In planning for the corridor, county officials went to great pains to incorporate the wishes of residents, business owners and others in Arlington. With 35,000 residents living in 18,000 houses and apartments, the corridor also has become a major employment center, concentrating more than 73,000 jobs within a third of a mile of the Arlington Metro stations. Meanwhile, older single-family residential neighborhoods surrounding the corridor remain undisturbed.

Perhaps most remarkable, all this development has generated only modest levels of additional traffic on local streets. Transit ridership in the corridor is higher than anywhere else in the region other than the District of Columbia. Forty-seven percent of residents use modes of travel other than an automobile to get to work, and 73 percent arrive at rail stations on foot—so many that land originally devoted to parking has been converted to high-density, mixed-use development. Ten percent of homeowners and 20 percent of renters do not own cars—the highest rate in the region outside the District of Columbia.

More information on TOD in general can be found at www.reconnectingamerica.org > Best Practices.

THE PARKING CONUNDRUM

Few issues in urban design are as thorny as parking. Provide too much parking, and the result may be a place where parking lots separate and isolate stores and offices, making driving for every task inescapable. Provide too little, and visitors will stay away or turn nearby neighborhood streets into parking lots.

Many communities are evaluating parking issues as part of a broader process of reevaluating their overall goals for growth. Typical parking regulations and codes tie the amount of parking to overall square footage or the number of dwelling units. It is common for such regulations to assume that all trips will be made by private automobile regardless of the neighborhood's particular mix of uses, access to transit and walking, and context. Inflexible parking requirements can force businesses to provide unneeded parking that wastes space and money, harms the environment, and makes the resulting district less accessible and appealing to pedestrians.

A new report from the EPA, *Parking Spaces, Community Places: Finding Balance through Smart Growth Solutions*, highlights proven approaches that balance parking with broader community goals. The

highlighted methods cover a range of strategies for parking supply management, demand management, and pricing. Find it online at <http://www.epa.gov/smartgrowth/parking.htm>.

Also, Donald Shoup's acclaimed book, *The High Cost of Free Parking*, offers an in-depth discussion of the relationship between the cost and availability of parking and the resulting quality of urban places. Shoup, a professor at the University of California, Berkeley, argues that free parking leads to the "over-breeding" of cars, causing overuse of vehicles, parking shortages, and conflicts over parking. Cash-strapped local governments and neighborhoods lose revenue opportunities as well. Free parking can even increase the cost of housing when local governments require a certain number of parking spaces per dwelling unit, adding to the expense of building. But rather than create burdensome regulations about who can park where and when, Shoup argues for a market approach. He suggests that the market price for parking spaces should reflect the full price of providing parking while making sure that parking receipts go primarily to the local neighborhood for improved public services.

Planning with the Public:

Best Practices in Citizen Engagement

The modern era of public participation is in many ways a reaction to citizen rebellions of the 1960s and 1970s, when residents across the country fought urban renewal, highway construction in urban neighborhoods, and sprawling development that threatened treasured landscapes. By the 1990s, citizens had become so adept at obstructing unwanted change that many local governments and even developers began to realize that residents' concerns needed to be heard and addressed at the outset of a planning or design effort.

What is Public Participation?

Every community has different needs and priorities, from transportation and housing choices to economic redevelopment and a better sense of community. The people best able to define those needs and priorities are those who live in a community or who hold a stake in it, including business owners, landowners, and residents.

Citizen stakeholders rightly expect a return on their investment of time. If they get involved in the planning process, they want their involvement to have some impact on the final result. Local government planners and decision makers likewise want to see a meaningful return. They commit time and money, and they need the planning process to function effectively. The also hope that the process will create public trust in the result.

Whenever communities consider important planning efforts, major changes to zoning and development rules, or high-impact development projects, local officials will be expected to notify and include potential stakeholders. Stakeholders can be anyone that has a direct interest in the development of the plan or project. The list often includes landowners, government agencies, businesses, citizens, and special interest groups. (See Checklist of Suggested Stakeholders for a more comprehensive list of potential stakeholders.)

The key stakeholders from the government, private sector and nonprofit community are relatively easy to identify, and it is important to include them. However, this is not the same as engaging citizens. Note that the operative word here is “engage” and not merely “notify” or even “involve.” Many public involvement efforts have failed because they amounted to asking for feedback on a proposal that was all but a done deal. As the Department of Community Affairs notes in its guidebook, *Planning for Community Involvement*, “Successful public involvement is not simply measured by the number of people who attend a meeting or by how many post cards are mailed or by how many residents visited the community’s website.”

Most local officials today understand that they must involve citizen representatives early in any major planning or development effort. But merely posting a notice in the newspaper or on the website is unlikely to ensure that the people who are most affected, or who can do the most to undo otherwise carefully

CHECKLIST OF SUGGESTED STAKEHOLDERS

The Georgia Department of Community Affairs has a list that can serve as a checklist of potential stakeholders to include in any planning process:

- Local elected officials
- Local appointed officials and boards, such as the planning commission
- Boards of education
- Local government planning, engineering, and building inspections staff
- Utility authority staff, including water and sewer authorities
- Homeowners and neighborhood associations
- Major landowners
- Major employers
- Agricultural groups, such as farmers, extension agents and the Farm Bureau
- Members of the development community, including builders, engineers, surveyors, land planners, and contractors
- Realtors
- Chambers of commerce
- Industrial development authorities
- Environmental groups
- Health departments
- Housing agencies
- Non-profit groups
- Civic, service, and business groups
- Churches and faith-based organizations
- University and college representatives
- Military base representatives
- Historic, museum, and heritage groups
- Senior citizens' groups and retirement community residents
- Youth groups and students

made plans, are present. At the outset, it is important to be able to answer some key questions: Who speaks for the affected neighborhoods? Who may negotiate on their behalf if it comes to that? Are there classes of citizens who have not come out for public meetings but whose input is nonetheless important to future success? As the old saw goes, the best time to make a friend is before you need one. The same principle applies when it comes to establishing good working relationships with citizen groups, neighborhood associations and other representatives of a community's civic infrastructure.

Scenario planning: Creating a shared vision of the future

In recent years, a number of communities have undertaken long-range blueprints for future growth and change, some with horizons stretching 20 years. Crafting such a vision can be done at the community, regional, or state level. It usually involves focused, public conversations about the issues, benefits, and tradeoffs involved.

These efforts are often led by a government agency, but not always. Non-governmental coalitions can also lead the way. Initial input from the general public and specifically identified stakeholders is solicited through public opinion surveys and questionnaires. Much of the real work, however, happens in hands-on workshops. Usually, the process generates two or more scenarios, showing a range of options for development in various places, transportation investments, etc. The public is given an opportunity to express a preference for one of the scenarios, which may be adopted as the shared vision to guide future planning and development.

One well-known, pioneering example of scenario planning was conducted for the Salt Lake City region by a non-profit called *Envision Utah*. Led by a coalition of business, civic and government leaders, *Envision Utah* began by listening to people, thousands of them. Organizers invited citizens to a series of more than 150 public workshops where, through innovative planning tools, they were able show how they wanted to shape future land use, transportation and open space preservation. Then, *Envision Utah* asked every household in the region to complete a survey on the region's future. Ultimately, nearly 17,500 area residents filled out

and returned the Envision Utah growth survey. Nearly 2,000 residents attended at least one of 50 town meetings.

In the end, citizens said they wanted more investment in public transportation and affordable housing, more reliance on cycling and walking, more preservation of open spaces and more town-like development along key transportation spines. The resulting growth strategy differs dramatically from current trends. It conserves 171 square miles of land that otherwise would be developed, offers additional choices in housing and neighborhood types, reduces vehicle emissions and traffic congestion, and saves \$4.5 billion on transportation, water, sewer and utility infrastructure. More information on Envision Utah is available at www.envisionutah.org.

Planning by charrette: An intensive and collaborative planning workshop

Increasingly popular for high-impact projects, *charrettes* are accelerated design workshops that bring all parties together in one place for four or more consecutive days to collaborate on development plans. The forum allows everyone from architect to neighbor to real estate marketer the opportunity to address needs and concerns in the design process.

The word charrette seems to pop up now wherever there are tough calls to be made about development or redevelopment. In the weeks after 2005's Hurricane Katrina, for example, the Congress for the New Urbanism (www.cnu.org) organized a huge charrette in Biloxi, Mississippi to help 11 towns plan for their rebuilding, with numerous follow-on charrettes within the towns themselves. Likewise, many communities throughout Louisiana have relied on charrettes to kick-start their planning.

The appeal of conducting a charrette is that it allows a multidisciplinary team—a team that often includes planning and design practitioners, real estate and retail experts, developers, and local government officials—to consult with residents and other stakeholders as they develop plans or designs. By involving a full range of experts and stakeholders at the outset, charrettes can help planners anticipate and adapt to a range of potential pitfalls, whether technical or political. In addition, a charrette promotes joint ownership of the resulting proposal and so serves to defuse tensions between residents and developers.

Typically, a charrette kicks off with a hands-on workshop where information is shared and the public given an opportunity to provide ideas on the overall vision or specific project. The design team then uses those ideas to create a series of alternative plans and solicits public response at another meeting, where alternatives are refined and details added. Proposals are then again reviewed and critiqued during a public open house before the design team further refines and narrows the feedback into a final plan and set of implementation documents. These are presented for public confirmation on the charrette's final night.

Designed to incorporate people's unique talents, charrettes build something that no one person could achieve alone. They are best used in situations with real projects when development is imminent. Charrettes can be particularly

useful in contentious situations that require conflict resolution because they bring together decision makers for a concentrated period of time to create a detailed, feasible agreement that can otherwise take months to achieve.

What makes charrettes different from other planning events?

Unlike other public meetings, a charrette is expertly facilitated so that everyone is heard and no one dominates. Compressed work sessions are also used to promote creative problem solving by accelerating decision-making and reducing unconstructive negotiation tactics. Another unique trait of charrettes is a series of feedback loops that enable design ideas to be created from a public vision and presented within hours for further review, critique, and refinement. For participants, feedback fosters a holistic understanding of complex problems and illustrates the impact of their involvement. For planners, the process forms a foundation that reflects all vital viewpoints. It can result in a plan that anticipates and accommodates many stakeholders' needs. Local officials play an essential role in ensuring that the plans are followed.

More background on charrettes is available at the National Charrette Institute at: <http://www.charretteinstitute.org/>.



The goal: meaningful discussion

There are many ways to effectively engage citizens: workshops, hearings, scenario planning, charrettes, informal informational sessions, written comments and online comments and discussion. Whatever the method of public involvement, the goal is the same: meaningful discussion. Done well, public participation is good democracy. The benefits are significant.

Meaningful public participation helps local officials make sound decisions. It helps planners address a community's real needs and concerns, consider a wide range of options, and reduce errors. It builds trust and strengthens communities.

Public participation is the best way to introduce and test the concepts discussed in this guide and to gather other good ideas. Not infrequently, it produces the kind of creative answers or compromises that arise only from a thorough airing of issues, questions, and answers. Good public participation improves a plan or proposal. The result is often something that citizens can sincerely and even enthusiastically support.

Show Me a Picture: Visual Aids for Decision-making

Planning necessarily involves talking about the future. Good visual tools can help stakeholders picture the options under discussion and so choose wisely. Two of the most effective tools for visualization are the visual preference survey and computer-aided imaging.

BEFORE >

A visual preference survey allows respondents to view images of a range of development options and rate them. Visual preference surveys can illustrate architectural styles, building setbacks, the site layout of a new development, the size and scope of proposed transportation facilities, new landscaping possibilities, the potential appearance of a revitalized downtown corridor, and other design elements. The information can help decision-makers get a clear sense of how policies and regulations help or hurt in creating the kind of places their constituents respond to most positively. The survey is often administered in public forums as a set of slides, but it also can be presented on a written ballot or in a Web-based format.



Image: Urban Advantage

AFTER >

*with crosswalks added and
a landscaped median.*

Computer-aided imaging allows for the creation of two-dimensional views and three-dimensional models to illustrate a potential project before it is built. When planners and architectural firms use computer-generated-images or models in a public forum, they allow the public to see a realistic view of what a new development might look like, often enabling more constructive public input.



Image: Urban Advantage

“GREEN” CERTIFICATION PROGRAMS CAN REASSURE CITIZENS

Demand for environmentally sustainable or “green” building and development is rising, but those can be difficult terms to define. Newly designed rating systems offer a promising way to evaluate proposed projects and provide citizens and government officials alike with a systematic way to judge likely impacts and benefits.

LEED for Neighborhood Development

Since its introduction a few years ago, the Leadership in Environmental Engineering and Design (LEED) rating system developed by the U.S. Green Building Council (USGBC) has gained wide acceptance as a way both to teach best practices in resource-efficient building design and to recognize the builders and buildings that use them. Projects can earn LEED certified, silver, gold, or platinum status by meeting rigorous criteria in several categories: sustainable sites, water efficiency, energy and atmosphere, indoor environmental quality, materials and resources, and innovation in design.

Critics of the LEED system have argued that its focus on individual buildings gives too little weight to the building’s context and the overall effect of development patterns. For example, a brand-new office building in a cornfield reachable only by car could rate higher for energy savings than a renovated, in-town building accessible by subway, foot, bike, and car, even though the real-world energy and environmental impacts of the “recycled” building are significantly lower.

The USGBC responded to the critique by working with environmental and smart-growth experts to create a rating system for multi-building development projects, called LEED for Neighborhood Development, or LEED-ND. About 200 projects are now in a pilot phase to test the rating system, with plans for a general roll-out in 2009. Already, however, several localities and the state of Illinois have adopted LEED-ND as part of their standards for evaluating projects and public investments that support development.

EarthCraft Communities

Georgia’s own Southface Energy Institute has created a similar program based on its widely praised EarthCraft House seal of energy and environmental efficiency. Initially, the EarthCraft House program focused on single and multi-family buildings with limited attention to site development issues. However, in 2003, EarthCraft initiated a pilot program to develop broad guidelines for sustainable community development. The Atlanta Regional Commission, Urban Land Institute and other policy leaders worked with Southface, land developers, environmental groups and other stakeholders to address development issues that include site selection, land disturbance, water quality, stormwater management, energy, water and transportation infrastructure, community design, open space, greenspace preservation, pedestrian design, transportation, and related issues.

To be certified, participating development projects must plan to build at least 35 units, certify all structures according to EarthCraft House standards and meet the requirements set forth in the EarthCraft Piedmont Communities or EarthCraft Coastal Communities guidelines.

More on LEED-ND can be found online at
<http://www.usgbc.org> > LEED Online > LEED for Neighborhood Development.

More information on EarthCraft Communities can be found at
<http://www.earthcrafthouse.com/About/communities.htm>.

Conclusion

Sustained growth has been Georgia’s good fortune, and it is expected to continue. But the growth to come will be different. For one thing, Georgia’s population will become older. The number of residents aged 65 and older will triple by 2030. For another, the percentage of households with children will continue to decline. By 2030, households with children will account for slightly more than 25 percent of metro area households—half the 50 percent they represented in 1960.

There will be other differences, too. Metro Atlanta grew fastest and farthest during a time of cheap gasoline and plentiful federal highway dollars. Distances between two points could once be measured in fast highway miles. There seemed no reason not to consume land in great gulps.

Now population growth, changing demographics, rising energy costs, traffic congestion and increasing concern about climate change all cast lengthening shadows on that day and time.

But there are many reasons to be hopeful. Here’s one: When you combine the number of buildings that will be needed to accommodate new growth with the number needed to replace obsolete or aging structures, it’s been estimated that we have only half the buildings that we will need by 2030. So there’s much good work to be done.

Here’s another: As anyone who has attended a zoning hearing recently can tell you, citizens and elected officials are increasingly sophisticated about the kind of growth they want and the choices available to them. Communities are learning that they need not simply endure change. They can manage and even shape it if they choose.

This guide was assembled to provide an overview of planning tools, laws, terms, and concepts. It will fulfill that purpose if it gives readers a basic understanding of those things. It will only succeed, however, if it also encourage readers—empowers them, even—to help shape the change that must surely come their way.

¹ Constitution of the State of Georgia (Ga. Const.), Article IX, Section II, Paragraph IV.

² Official Code of Georgia Annotated (O.C.G.A.) §36-66-1 et. seq.

³ O.C.G.A. . §36-67-1 et. seq.

⁴ *Gwinnett County v. Davis*, 268 Ga. 653, 654-5 (1997).

⁵ O.C.G.A. §36-66-1 et. seq.

⁶ See e.g. *Suddeth v. Forsyth County*, 258 Ga. 773 (1988), (permit required for an airport).

⁷ *Emory University v. Levitas*, 260 Ga. 894, 899 (1991).

⁸ See e.g. *Gifford-Hill & Co., Inc. v. Harrison*, 229 Ga. 260 (1972).

⁹ *Euclid, NY v. Ambler Realty*, 272 U.S. 365 (1926).

¹⁰ *Johnston v. Hicks*, 225 Ga. 576, 578 (1969) (citing Code §2-1825).

¹¹ *Hicks*, at 576 (citing Code §2-1826).

¹² 1974 Op. Atty Gen. Ga. U74-9 (citing Ga. Code Ann. §2-1923.)

¹³ Ga. Code Ann. §69-8, 12.

¹⁴ *Hicks*, at 578-579 (citing Ga. Code Ann. §2-8402, 8404).

¹⁵ 1977 Op. Atty Gen. Ga. 7, pp. 6-7.

¹⁶ Ga. Const. Article IX, Section II, Paragraph IV.

¹⁷ O.C.G.A. §36-66-1 et. seq.

¹⁸ O.C.G.A. §36-67-1 et. seq.

¹⁹ O.C.G.A. §50-8-1 et. seq.

²⁰ O.C.G.A. §36-71-1 et seq.

²¹ O.C.G.A. §36-66A-1 et seq.

²² O.C.G.A. §50-32-1 et seq.

²³ O.C.G.A. §36-44-1 et. seq.; H.B. 409 (2001).

²⁴ *Woodham v. City of Atlanta*, 238 Ga. 95 (2008).

¹¹ *Berkelbaugh v. Green*, 258 Ga. 150, 366 SE2d 284 (1988). It is also important to note, however, that certain local government actions are considered quasi-judicial in nature. See also *Dougherty County v Webb* 256 Ga. 474, 478 (fn. 3) (1986), in which the court reasoned, where a special permit is sought, the “body acts in a quasi-judicial capacity to determine facts and apply the law.”

¹² *Avera v. City of Brunswick*, 242 Ga. 73 (1978). The Georgia Supreme Court has taken the opportunity to “reiterate and clarify the steps required to prove a taking, and unconstitutional deprivation...” as follows:

1. The zoning ordinance is presumptively valid.
2. The challenger has the burden to present clear and convincing evidence that he has suffered a significant detriment which is insubstantially related to public health, safety, morals and general welfare.
3. Once the challenger meets this burden, the governing authority may justify the existing zoning as reasonably related to the public interest.
4. Should the governing authority not rebut this evidence, then an “unconstitutional deprivation,” a “taking” has been shown, and the ordinance becomes void. See *Jones v. City of Atlanta*, 257 Ga. 727 (1988).

¹³ In *Guhl et al. v. Holcomb Bridge Road Corporation et al.*, 238 Ga. 322, 323 (1977), the Court established the following lines of inquiry as relevant to zoning decisions:

1. The existing use and zoning of nearby property.
2. The extent to which property values are diminished by the particular zoning restrictions.
3. The extent to which the destruction of property values of the plaintiffs promotes the health, safety, morality or general welfare of the public.
4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner.
5. The suitability of the subject property for the zoned purposes.
6. The length of time the property has been vacant as zoned, considered in the context of land development in the area in the vicinity of the property.

¹⁵ “If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control.” *DeKalb County v. Chamblee Dunwoody Hotel Partnership*, 248 Ga. 186, 190 (1981). See also, *DeKalb County v. Dobson*, 267 Ga. 624 (1997). “Only after the individual attacking the zoning classification presents clear and convincing evidence that there is no substantial relationship between the classification and the public health, safety, morals, or general welfare, does the county need to present further evidence justifying the zoning.” *Koppar Corporation v. Griswell*, 246 Ga. 539, 540 (1980).

¹⁶ *City of Atlanta v. Tap Assoc.*, 273 Ga. 681 (2001).

¹⁷ *Id.*, at 684-5.

¹⁸ *DeKalb County v. Albritton Properties*, 256 Ga. 103 (1986).

¹⁹ *Id.*, at 109.

²⁰ *The Dictionary of Real Estate Appraisal*, 4th Edition. Appraisal Institute (2002).

²¹ The following excerpts illustrate how courts have ruled on this issue. “The evidence indicates the highest and best use of the subject property, i.e., the most profitable use, is for limited medical purposes. However, that the subject property would be more valuable if rezoned is not enough upon which to declare the zoning unconstitutional.” *Floumoy v. City of Brunswick*, 248 Ga. 573, 574 (1983) “It is not sufficient to show that a more profitable use could be made of the property.” *Avera v. City of Brunswick*, 242 Ga. 73, 75 (1978); *Pennington v. Rockdale County*, 244 Ga. 743, 744 (1979); *Turner v. City of Atlanta*, 257 Ga. 306 (1987). “We have often held that diminution of value itself does not constitute a constitutional deprivation.” *Holy Cross Lutheran Church, Inc. v. Clayton County*, 257 Ga. 21, 22-23 (1987).

²² O.C.G.A. §36-66-5.

²³ O.C.G.A. §36-67-1, 3.

²⁴ O.C.G.A. §36-67-5, 6.

²⁵ See, for example, Robert Charles Lesser and Co, LLC, *Memorial Drive Economic Development Strategic Action Plan*, p. 114 (April 19, 2002).

²⁶ The Zoning Procedures Law does not specify what the rezoning standards are, but it does provide that “such standards 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.” O.C.G.A. §36-66-5(b). The General Assembly has also mandated (in the Steinberg Act, O.C.G.A. §36-67-1 et. seq.) that jurisdictions of specified population size consider infrastructure availability in rezoning decisions. One of six criteria specified in that act reads as follows: “Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.” The fact that this criterion is mandated for some urban governments suggests to some observers that the Georgia General Assembly views such a standard as appropriate for other local governments as well. Even though less populated governments are not required to consider that rezoning criterion, some have chosen to include it in zoning ordinances and apply it in rezoning decisions.

²⁷ Volume 4, Chapter 71, Section 71.2 of *Rathkopf’s The Law of Zoning and Planning*, by Arden H. Rathkopf and Daren A. Rathkopf. Edward H. Ziegler, Jr, Principal Author for Revision (Release #13, 5/2005, Thomson West).

²⁸ For a briefer explanation of overlay districts, see the Georgia Quality Growth Partnership’s Quality Growth Toolkit: <http://www.dca.state.ga.us/toolkit/ToolDetail.asp?CefTool=7>. For detailed guidance on establishing overlay districts, see the Atlanta Regional Commission’s Quality Growth Toolkit on Overlay Districts: <http://www.atlantaregional.com/qualitygrowth/toolkits.html> For an overview of the overlay district tool and other quality growth tools, see the Atlanta Regional Commission’s Regional Development Plan (RDP) Guidebook: <http://www.atlantaregional.com/qualitygrowth/quality-growth.html>

²⁹ For technical assistance on setting up an urban redevelopment agency, including the options available, see the Georgia Department of Community Affairs’ model code (Alternatives to Conventional Zoning), Section 5-5.

³⁰ O.C.G.A. §36-61-16.

³¹ See O.C.G.A. §36-61-2 for required contents of urban redevelopment plans. O.C.G.A. §36-61-7 authorizes private persons to prepare and submit an urban redevelopment plan. For a useful overview of state redevelopment statutes, see Georgia Department of Community Affairs, March 31, 2005, *A Guide to Using Georgia’s Urban Redevelopment Act*. An earlier summary of redevelopment statutes was prepared for the Gwinnett County Revitalization Task Force in 2002. See *Working Paper on Georgia’s Redevelopment Laws* (Gwinnett County Planning Department).

³² *Getting to Smart Growth: 100 Policies for Implementation*, pp. 52-53.

³³ O.C.G.A. §36-44-1. For a useful reference on experiences with tax increment financing programs across the U.S., see: Johnson, Craig L., and Joyce Y. Man. *Tax Increment Financing and Economic Development: Uses, Structures, and Impact*. (Albany: State University of New York Press, 2001).

³⁴ The Georgia State Constitution provides for the establishment of Community Improvement Districts (CIDs) and specifies certain requirements for establishing them. The Constitution authorizes the Georgia General Assembly to create CIDs by local law. A CID is principally a taxing district established for the purposes of providing governmental services and facilities which are paid for by taxes on real property within the CID. (Ga. Const. Article IX, Section VII.)

³⁵ Local governments can issue general obligation bonds and revenue bonds, contract for federal assistance, and levy taxes and assessments for public improvements within designated urban redevelopment areas. See O.C.G.A. §36-61-16. Development authorities can issue revenue bonds (O.C.G.A. §36-62-69).

³⁶ Public infrastructure can be financed with using a special district created pursuant to Article IX, Section II, Paragraph VI of the Georgia Constitution.

³⁷ *Getting to Smart Growth: 100 Policies for Implementation*, p. 55.

³⁸ *Ibid.*, p. 24.

