

NOTES

**LAND USE ZONING: THE ANSWER TO HOUSING
AFFORDABILITY? A LOOK AT AUCKLAND, NEW ZEALAND
AND MINNEAPOLIS, MINNESOTA**

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I. INTRODUCTION

For many individuals, purchasing their first home is a monumental step which they look forward to for years. Homes are one of the most valuable assets individuals purchase within their lifetime.¹ In the current housing market, reaching this milestone is becoming more and more difficult for individuals.² Adequate and affordable housing is scarce.³ This is not just an issue plaguing the United States, but it is an issue many metro areas worldwide currently face.⁴ Globally, there are not enough affordable houses for sale or rent for the number of people on the planet.⁵ This scarcity has led to a global housing crisis.⁶ This supply shortage has caused prices of homes to soar beyond what the average

¹ Jean Folger, *Assets That Increase Your Net Worth*, INVESTOPEDIA (Aug. 19, 2024), <https://www.investopedia.com/articles/pf/12/assets-that-increase-net-worth.asp#:~:text=Your%20home%20is%20probably%20your,for%20your%20place%20of%20residence> (“Your house is probably the asset that has the most value . . .”).

² *Solving the Global Housing Crisis*, WORLD FIN., <https://www.worldfinance.com/infrastructure-investment/solving-the-global-housing-crisis> (last visited Oct. 26, 2025) (stating that the National Low Income Housing Coalition found that “a renter working 40 hours a week and earning minimum wage cannot afford a two bedroom apartment in the US”); see also Ehsan Soltani, *Mapped: How Global Housing Prices Have Changed Since 2010*, VISUAL CAPITALIST (Apr. 2, 2023), <https://www.visualcapitalist.com/cp/mapped-global-housing-prices-since-2010/> (showing the percentage increase in real and nominal housing prices in various countries around the world, where the real price growth rate for 2010 to 2022 Q2 worldwide was 27% and the nominal price growth worldwide for 2010 to 2022 Q2 was 84%).

³ Steffen Wetzstein, *The Global Urban Housing Affordability Crisis*, 54 URB. STUD. 3159, tbl. 1 (2017), <https://journals.sagepub.com/doi/epub/10.1177/0042098017711649> (containing selected news media publications showing headlines around the world discussing the lack of affordable and adequate housing); see also Rose Morrison, *The Global Housing Crisis: Facts, Figures, and Solutions*, UNSUSTAINABLE MAG. (Nov. 21, 2023), <https://www.unsustainablemagazine.com/global-housing-crisis-overview/#:~:text=Countries%20around%20the%20world%20are,worsening%20effects%20of%20climate%20change> (discussing the current housing shortage, stating “[t]he U.S. needs 6.5 million homes to solve the crisis”).

⁴ Wetzstein, *supra* note 3, at 3161 (“In contrast to the GFC. . . the new global crisis emerges simultaneously across many metropolitan regions around the planet.”).

⁵ Victoria Masterson, *What Has Caused the Global Housing Crisis – and How Can We Fix It?*, WORLD ECON. F. (June 16, 2022), <https://www.weforum.org/agenda/2022/06/how-to-fix-global-housing-crisis/> (“The world needs to build 96,000 new affordable homes every day to house the estimated 3 billion people who need access to adequate housing by 2030 . . .”).

⁶ This Note will focus on the housing crisis facing wealthy countries. When this Note refers to the global housing crisis and ways the legal profession could aid in decreasing the disparity between available housing and the number of people, it only speaks to this issue in the context of wealthy countries. The circumstances creating the housing problem in least developed countries differ significantly from the circumstances creating the housing problem in wealthy countries.

individual can afford.⁷ A fundamental idea of economics is the relationship between supply and demand.⁸ The basic concept of supply and demand is when there is more demand, prices are more likely to be higher, and when there is more supply, prices tend to be lower.⁹ When there is insufficient supply to satisfy the demand, buyers tend to drive prices upward.¹⁰ On the other hand, if there is inadequate demand in relation to the supply, it results in lower prices.¹¹ In the context of the housing market, an inadequate supply of housing to satisfy demand can result in unaffordable housing for a large majority of people, but a surplus of supply in relation to demand could cause the market to crash. The ultimate goal of the market is to reach the point of equilibrium: the point where supply and demand are equal.¹² Several factors impact the supply of housing, and this Note will argue that governmental policies and local acceptance of development are the two significant factors that impact supply.¹³ Because of other factors that influence the relationship between supply and demand outside of the market, it is

⁷ Masterson, *supra* note 5 (“In a study of 200 cities globally, 90% were found to be unaffordable to live in, with the average home costing more than three times the average income.”). See generally *Global Housing Watch*, INT’L MONETARY FUND (Sep. 22, 2022), <https://www.imf.org/external/research/housing/index.htm> (providing graphs displaying the changes in housing prices and the ratio of housing prices to income); Jared Bernstein et al., *Alleviating Supply Constraints in the Housing Market*, THE WHITE HOUSE (Sep. 1, 2021), <https://bidenwhitehouse.archives.gov/cea/written-materials/2021/09/01/alleviating-supply-constraints-in-the-housing-market/#:~:text=The%20Administration%20urges%20Congress%20to,2%20million%20housing%20units%20nationally> (“Indeed, national home prices . . . increased by 7 to 19 percent (year-over-year) every month from September 2020 to June 2021. Home prices outpaced income growth in 2020, with the national price-to-income ratio rising to 4.4—the highest observed level since 2006.”).

⁸ See generally *Supply and Demand*, BRITANNICA MONEY, <https://www.britannica.com/money/topic/supply-and-demand> (last visited Nov. 4, 2025) (discussing the economic relationship between supply and demand).

⁹ *Impact of Supply and Demand on the Housing Market*, INVESTOPEDIA (Oct. 25, 2025), <https://www.investopedia.com/ask/answers/040215/how-does-law-supply-and-demand-affect-housing-market.asp#:~:text=Key%20Takeaways,less%20demand%20in%20the%20market> (“When demand for housing is high and supply is low, home prices typically rise.”).

¹⁰ *Supply and Demand*, *supra* note 8.

¹¹ *Impact of Supply and Demand on the Housing Market*, *supra* note 9.

¹² *Id.*

¹³ *Supply and Demand in Real Estate*, THE BALANCE (Aug. 9, 2022), <https://www.thebalancemoney.com/real-estate-supply-and-demand-2866979#:~:text=In%20real%20estate%2C%20as%20with,and%20local%20sentiment%20about%20development> (“Factors that impact real estate supply include labor and materials supplies, government policies, and local sentiment about development.”); see also Bernstein et al., *supra* note 7 (stating that one factor affecting supply in the United States is a shortage of land which “reflects public policy decisions of municipalities about how to use land” and that “[a]nother key factor driving limited housing supply is local zoning restrictions”).

improbable that the equilibrium price will ever be reached.¹⁴ Governments worldwide are looking for ways to help alleviate the imbalance between supply and demand and the resulting pressure on housing prices.¹⁵ A significant relief to this pressure is examining the current land use and zoning laws implemented by governments worldwide. By relaxing some of the land use and zoning laws, governments can remove or decrease the legal barriers developers currently face, allowing the market to alleviate the imbalance between supply and demand and lowering housing prices. If developers and builders can build more housing, increasing supply, then the scale between supply and demand will become more balanced or reach an equilibrium, resulting in more affordable housing.¹⁶

This Note will examine the effects of land use and zoning laws on housing availability and affordability through a comparative analysis of Auckland, New Zealand, and Minneapolis, Minnesota. Both major cities in first-world countries that have implemented significant changes to their zoning laws to combat the housing issue plaguing both. Several other cities have also made substantial changes to their zoning laws, but Auckland and Minneapolis both made their changes early enough that it is now possible to see tangible results. This analysis is essential because it will show how impactful land use and zoning laws are to the housing market and provide a framework for other major cities and countries to consider when they examine their own land use and zoning laws.

This Note, however, will not examine every single land use and zoning law passed by Auckland and Minneapolis. Instead, it will give an overview of some of the significant changes in their regulations. Frankly, this Note cannot examine this topic in a vacuum because of the many other factors that affect the housing market.¹⁷ This Note simply argues that land use and zoning laws play a significant part in the housing market. This Note does not argue that land use and zoning laws are the only factors contributing to the housing crisis or that they are the most critical factors. Other factors like interest rates and inflation also affect the pricing of the housing market, but they, along with many other economic aspects, will not be discussed in this Note. This Note also does not argue that by relaxing land use and zoning laws, housing prices will experience a sharp decline or will no longer increase. It simply argues that by comparing other cities to Auckland and Minneapolis, where the significant difference is zoning regulation, it is possible to assess the effects of zoning regulation on the supply and affordability of housing. It is impossible to say that by simply implementing more relaxed land

¹⁴ *Impact of Supply and Demand on the Housing Market*, *supra* note 9 (“[Equilibrium price] happens, of course, when all other factors remain equal.”).

¹⁵ *Solving the Global Housing Crisis*, *supra* note 2 (discussing actions taken in Australia and India to try to provide more affordable housing); *see also* Masterson, *supra* note 5 (discussing some of the efforts taken in Japan, the United States, Scotland, India, Africa, Mexico, and Europe).

¹⁶ *See Supply and Demand*, *supra* note 8.

¹⁷ *See* Monika Palani, *Housing Crisis in Cities: Causes, Consequences, and Solutions*, LINKEDIN (May 5, 2023), <https://www.linkedin.com/pulse/housing-crisis-cities-causes-consequences-solutions-monika-palani/> (discussing different contributing factors to the housing crisis).

use and zoning laws, housing prices will decrease because these laws are not the only factors that contribute to the pricing of the housing market. This Note mainly argues that by implementing land use and zoning laws to encourage the building of adequate housing, the increase in housing prices could be brought to a slower pace or decline in relation to inflation. However, the factors and limitations mentioned above affect housing markets everywhere, even in Auckland and Minneapolis. Therefore, by examining and comparing the changes in the housing market in the two cities after reforming their zoning laws, this Note's author believes that it is fair to draw conclusions regarding the effect of those changes.

Part II of this Note will provide background on the exact nature of land use and zoning laws. Part III will focus on Auckland, New Zealand. Section III(A) will provide background on the land use and zoning laws in Auckland and look at the housing market in Auckland before new land use and zoning laws were implemented. Section III(B) will examine the current land use and zoning laws in Auckland and the impact of the new law on the housing market. Section IV will focus on Minneapolis, Minnesota. Section IV(A) will provide background on the land use and zoning laws in Minneapolis and examine the housing market during the enforcement of the old laws. Section IV(B) will look at the current land use and zoning laws in Minneapolis and the impact of these laws on the housing market. Finally, Part V will provide recommendations to other major cities and countries based on the findings discussed in the previous sections.

II. BACKGROUND ON LAND USE AND ZONING

Land use and zoning laws are both tools governments use to plan and control development within cities and communities.¹⁸ Land use establishes a plan that governs how the land can and should be developed.¹⁹ There are four common types of land use regulations: zoning, lot size regulation, urban growth boundary control, and floor area ratio regulation.²⁰ This Note focuses on zoning, which governs building construction and land use restrictions in certain areas.²¹ Zoning also lays out specifications for building construction.²² Zoning ordinances allow governments to execute their plans for specific land use.²³ Some of the most

¹⁸ See generally Bryan Miller, *What's the Difference Between Land Use and Zoning*, CREST REAL EST. (June 13, 2022), <https://www.crestrealestate.com/difference-land-use-zoning/> (explaining the difference between land use and zoning and how each has implications for landowners).

¹⁹ *The Basics of Land Use and Zoning Law*, TUL. UNIV. L. SCH. (Aug. 26, 2021), <https://online.law.tulane.edu/blog/land-use-and-zoning-law> (providing an overview of land use and zoning law).

²⁰ *Id.*

²¹ Miller, *supra* note 18.

²² *Id.*

²³ M. Ghorbanian, *The Evolution of Urban Zoning from Conventional to Form Based Codes: Introducing Non-Euclidean Zoning Techniques*, 30 INT'L J. ARCHITECT ENG'G & URB. PLAN 107, 107 (2020) ("Zoning is the regulation and restriction of land uses according to a predetermined plan.").

common land use categories include residential, commercial, agriculture, recreation, industrial, and transportation.²⁴ For example, zoning laws help ensure that these land designations are enforced by only allowing homes for individual occupation on land designated for residential use or prohibiting home construction on land reserved expressly for agricultural use.

There are several broad categories of zoning: Euclidean zoning, performance/impact zoning, incentive zoning, form-based zoning, and hybrid zoning.²⁵ Euclidean zoning is the practice of dividing “a community into separate districts or zones which dictate a particular use.”²⁶ A zone’s particular use under this approach is similar to those discussed above: residential, commercial, industrial, etc. This form of zoning is the most common in the United States.²⁷ The performance or impact zoning codes do not create and restrict zones to specific uses like Euclidean zoning codes but instead determine the compatibility of development with the surrounding area.²⁸ Incentive zoning occurs when a property owner receives “certain benefits or exemptions from zoning restrictions in exchange for meeting certain public goals or objectives.”²⁹ Local governments choosing this type of zoning regulation must be careful not to fall into illegal contract zoning.³⁰ Form-based codes are regulations that use a physical form instead of separation of uses to “foster predictable built results and a high-quality public realm.”³¹ Such codes regulate the character of development instead of the use of the land.³² A hybrid code “combines traditional zoning controls with form-based zoning techniques.”³³ These zoning categories are not mutually exclusive; rather, they frequently overlap and operate in tandem to produce an effective regulatory framework.

²⁴ Miller, *supra* note 18.

²⁵ Ghorbanian, *supra* note 23.

²⁶ THE MD.-NAT’L CAP. PARK & PLAN. COMM’N, ZONING BEST PRACTICES 7 (Sep. 2014), https://zoningpgc.pgplanning.com/wp-content/uploads/2014/12/Zoning-BP_edited-11_4.pdf.

²⁷ *Id.* (“The most common approach to zoning and subdivision (land use) regulations in the United States is conventional ‘Euclidean’ zoning.”).

²⁸ *Performance Zoning*, PUGET SOUND REG’L COUNCIL, <https://www.psrc.org/media/2054> (last visited Nov. 6, 2025) (“In lieu of regulating land uses, performance zoning establishes neighborhood compatibility, transportation, open space, and other standards that developments must meet.”).

²⁹ *Incentive Zoning*, CORN. L. SCH.: LEGAL INFO. INST. (Mar. 2023), https://www.law.cornell.edu/wex/incentive_zoning.

³⁰ *Id.* (“Illegal contract zoning occurs when a property owner is granted a zoning exemption in exchange for a payment or other private benefit that is not related to a public benefit.”).

³¹ *Form-Based Codes Defined*, FORM-BASED CODES INST., <https://formbasedcodes.org/definition/> (last visited Nov. 6, 2025).

³² *Id.* (“They are keyed to a regulating plan that designates the appropriate form and scale (and therefore, character) of development, rather than only distinctions in land use types.”).

³³ Arista Strungys, *The Five Steps to a Hybrid Code*, ZONING PRAC., May 2008, at 1, 2.

A critical area that affects land use and zoning regulations is the environment.³⁴ It is important to discuss the environmental impact of increasing housing supply if not done conscientiously. An acknowledgment that not all land can be used for housing is critical and supports later arguments in this Note that governments should relax land use and zoning regulations for land already used for residential purposes to increase the effective use of such land, rather than continuing to expand and harm the environment.

Because municipalities can dictate how developers use and build upon land, these local governments have the power to significantly impact the environment.³⁵ Many of the decisions made by municipalities when implementing land use and zoning laws have a direct effect on the environment.³⁶ This means municipal zoning decisions can either help protect natural resources and the environment or harm it. One environmental concern greatly affected by zoning regulation is the emission of greenhouse gases. Because zoning outlines the uses of certain sections of land, municipalities could unintentionally place residential land far away from retail and commercial land, increasing the number of cars on the road.³⁷

Municipal land use planning and zoning regulations should prioritize walkability as a core component of their urban design. Strict zoning laws could also lead to urban sprawling, as discussed in more depth later in the Note, increasing the need for personal vehicles.³⁸ Outside of the municipal decisions, local governments must also consider various federal and international environmental laws and agreements when developing land use and zoning regulations.³⁹ Municipalities must balance the desire for city growth and the importance of protecting natural resources when creating their land use plan.⁴⁰

³⁴ *Opportunities to Reduce Climate Risks Through Land Use Regulations*, U.S. DEP'T OF HOUS. & URB. DEV. (2022), <https://archives.huduser.gov/portal/periodicals/em/summer22/highlight2.html> ("Land use regulations, such as zoning ordinances and building codes that determine the location and type of residential development, impact the environment.")

³⁵ John R. Nolon, *In Praise of Parochialism: The Advent of Local Environmental Law*, 23 PACE ENV'T. L. REV. 705, 705–06 (2006) (discussing the forms local environmental laws can take, such as "local comprehensive plans expressing environmental values, zoning districts created to protect watershed areas, subdivision and site plan regulations, and stand-alone environmental laws adopted to protect particular natural resources").

³⁶ *Opportunities to Reduce Climate Risks Through Land Use Regulations*, *supra* note 34 ("Land use regulations and their implementation determine where building occurs, what is built, and how it is built, all of which affect the environment.")

³⁷ *Id.* ("When zoning separates residential uses from retail uses—such as the grocery store and daycare center—individuals must travel longer distances to accomplish their daily tasks.")

³⁸ *Id.* ("People must spend more time in their vehicles when homes near job centers are too expensive, forcing them to live in more affordable housing farther away.")

³⁹ David Hunter, *International Environmental Law*, INSIGHTS ON L. & SOC'Y, Fall 2018, at 1 (discussing global and international agreements in the area of environmental law).

⁴⁰ *Opportunities to Reduce Climate Risks Through Land Use Regulations*, *supra* note 34 ("As jurisdictions consider revising land use regulations to reduce greenhouse gas

Even though relaxing land use and zoning laws would increase the housing supply, governments must weigh this benefit against the harm that could result from such an expansion. For an increase in available land for building homes, a government may have to take away land from an area designated for another use or allow for higher densities of residences, resulting in homes being built in closer proximity to each other. This would mean the government may have to reallocate land that has been designated as agricultural or recreational in order to increase land available for houses, or they may have to take away privately owned property to divide large lots to build more houses. Local governments must also consider the safety of their residents and the harm that could result if they allow homes to be built closer to land designated for industrial use or reclassify industrial land to residential. The land reclassified from industrial use to residential use is referred to as a brownfield.⁴¹ These lands could cause health and safety problems for individuals who reside on them if the land is not properly treated and adapted to residual use before undergoing rezoning. Even though serious dangers could result from this reclassification, investing in these lands to make them safe for inhabitants could result in an increase in usable residential land.⁴²

As discussed previously, one effect land use and zoning laws can have is the urban sprawl phenomenon.⁴³ Urban sprawl is “the rapid expansion of the geographic extent of cities and towns, often characterized by low-density residential housing, single-use zoning, and increased reliance on the private automobile for transportation.”⁴⁴ This expansion occurs without intentional planning and has crucial environmental impacts.⁴⁵ Due to a city's high cost of living and the lack of adequate housing, individuals move outside of the city into low-density areas where they can build residential homes at a much more affordable price.⁴⁶ This expansion results in the diminishment of natural resources and agricultural land.⁴⁷ Because local governments usually designate the area encompassing urban sprawl as a single-use zone, residential specifically,

emissions, they can address a range of related issues, such as increasing affordable housing and improving public health.”).

⁴¹ *Brownfields: About*, EPA (Sep. 10, 2025), <https://www.epa.gov/brownfields/about> (“A brownfield is a property where expansion, redevelopment or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”).

⁴² *Id.* (“In the United States, there are more than 450,000 brownfields.”).

⁴³ See generally *Atlas of Urban Expansion*, LINCOLN INST. OF LAND POL’Y, <https://www.lincolninst.edu/research-data/data/atlas-urban-expansion> (last visited Nov. 6, 2025) (showing how cities have expanded over time).

⁴⁴ John P. Rafferty, *Urban Sprawl*, BRITANNICA (Oct. 27, 2025), <https://www.britannica.com/topic/urban-sprawl>.

⁴⁵ *Id.*

⁴⁶ See OECD, *RETHINKING URBAN SPRAWL: MOVING TOWARDS SUSTAINABLE CITIES* 114–22 (2018), https://www.oecd.org/content/dam/oecd/en/publications/reports/2018/06/rethinking-urban-sprawl_g1g879c6/9789264189881-en.pdf (discussing key drivers of urban sprawl).

⁴⁷ Rafferty, *supra* note 44.

development of these communities is highly discouraged, resulting in individuals living a distance away from their jobs, schools, or stores.⁴⁸ This increases reliance on personal vehicles and the number of individuals on roads.⁴⁹ Eventually, these less populated areas are built up, more people move into the areas, housing prices increase, former residents must move further away, and the cycle starts over. Governments need to recognize this possibility when planning how to utilize the land in their cities.

Because land use and zoning laws affect local, privately owned land, individuals within cities can make development difficult. This tension created a phenomenon known as the “Not In My Back Yard” (NIMBY).⁵⁰ NIMBY “describe[s] the arguments of those opposing development in their vicinity.”⁵¹ The opposed developments can range from new home construction to new factory construction.⁵² Historically, many people viewed NIMBY arguments as a good thing, as residents protected their communities from harmful environmental dangers like factories, toxic dumpsites, and nuclear power plants.⁵³ However, over time, NIMBY developed a negative connotation.⁵⁴ As time progressed, people began to understand that NIMBY proponents did not necessarily dislike development, but, instead, they did not want particular developments in their neighborhood to affect their property values or the character of their neighborhood.⁵⁵ Today, NIMBY proponents are viewed as “selfish.”⁵⁶ Some people argue that NIMBY can have discriminatory purposes because those opposing the development of affordable housing, social service facilities, or factories that would bring in new jobs can use NIMBY to keep certain classes of people out of their communities.⁵⁷

⁴⁸ *Id.*

⁴⁹ OECD, *supra* note 46, at 122–24 (discussing the spatial dispersion of activity, car dependency and emissions).

⁵⁰ P. Hubbard, *NIMBY*, in INTERNATIONAL ENCYCLOPEDIA OF HUMAN GEOGRAPHY 444 (Rob Kitchin & Nigel Thrift eds., 2009).

⁵¹ *Id.*

⁵² *Id.* (“Though apparent in the context of opposition to house building in rural areas, especially on the urban fringe, NIMBYism has been directed against a range of ‘locally unwanted’ facilities such as factories, incinerators, and mobile phone masts in urban and suburban locales.”).

⁵³ Erin Flaherty, *What Is NIMBY? The ‘Not in my Back Yard’ Movement Explained*, REALTOR.COM (Feb. 15, 2022), <https://www.realtor.com/advice/buy/what-is-a-nimby-not-in-my-backyard-movement/>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Perry Haan, ‘*Not in My Backyard’ Movement Grows*, THE COURIER (July 6, 2022, 6:30 AM), <https://thecourier.com/news/395440/not-in-my-backyard-movement-grows/> (“In other words, Nimbys are being accused of discriminating against those who would move into their neighborhoods.”); *see also* Moira J. Kinnally, *Not in My Backyard: The Disabled’s Quest for Rights in Local Zoning Disputes Under the Fair Housing, the Rehabilitation, and the Americans with Disabilities Acts*, 33 VALPARAISO U. L. REV. 581 (1999) (discussing how the “NIMBY syndrome” is a practice of excluding certain facilities

As discussed previously, sprawl is a significant concern when it comes to the environment, and many view the NIMBY movement as a contributing factor to the sprawl problem. Some environmentalists, on the other hand, see the NIMBY movement as a good thing because people are taking an interest in the environmental impacts local decisions can have.⁵⁸ In other words, NIMBY means that people care about their communities and how land use can impact them.⁵⁹ Regardless of the different perspectives on the NIMBY movement, it is evident that proponents of this movement can have a detrimental impact on the growth and development of an area and create hurdles developers must navigate to implement their land use plans.⁶⁰

On the other side of the spectrum, a movement called the “Yes In My Backyard” (YIMBY) movement is generating popularity.⁶¹ Proponents of YIMBY welcome new developments in their community instead of opposing them like the NIMBY proponents do.⁶² Even though this movement does not cause the same hurdles to development as the NIMBY movement, some people see this movement as detrimental.⁶³ Some argue that the YIMBY movement causes communities to become too expensive to live in due to the extreme increase in development, which forces long-standing residents out of their communities.⁶⁴ It is important that local authorities responsible for creating zoning ordinances and making land use decisions take into account the desires and pitfalls associated with the NIMBY and YIMBY movements. It is essential to strike a balance where development occurs in a way that does not undersupply community housing but also does not completely change a neighborhood or increase the cost of living in a community so much that residents must relocate.

and people from an area through zoning, and focusing on how this has impacted people with disabilities).

⁵⁸ Haan, *supra* note 57 (“Many environmentalists see Nimbyism in a positive light. Their argument is that the basis of environmental awareness starts with caring about what happens locally.”).

⁵⁹ *Id.*

⁶⁰ *Id.* (“Studies suggest that billions of dollars have been lost in the U.S. due to Nimbyism. This includes costs involved in fighting those opposed to development and having to scrap some of the proposed projects.”).

⁶¹ Elvin Wyly, *YIMBY: The Last Frontier of Gentrification*, 46 INT’L J. URB. & REG’L RSCH. 319, 319 (2022) (“In the last decade, however, YIMBY has become a pop culture meme.”).

⁶² *Id.* (“The phrase and the idea have been reanimated by a new generation of charismatic, unconventional housing activists pushing local governments to allow developers to ‘Build, Baby, Build!’, to build any kind of housing ‘in hopes of easing exploding rents and home prices[.]’” (citations omitted)).

⁶³ *Id.* at 321 (arguing that the YIMBY movement is the “latest frontier of gentrification in a world of transnationally competitive and interconnected housing markets”).

⁶⁴ *Id.*

III. AUCKLAND, NEW ZEALAND

In order to understand the land use and zoning laws in Auckland, New Zealand, it is crucial to understand New Zealand's system for land use and zoning laws. New Zealand's national government, regional councils, and local authorities share the responsibility of implementing these laws.⁶⁵ The national government provides a framework that helps the lower levels of government planning.⁶⁶ There is no general land use and zoning plan for the entire country.⁶⁷ The National Environmental Standards and National Policy Statements also provide directions regarding environmental decisions that the lower-level governments must comply with in their planning.⁶⁸ The regional council is responsible for preparing the Regional Policy Statements, which lay out strategic spatial guidelines and implement small-scale land use regulations.⁶⁹ The local authorities make zoning decisions, create District Plans, and oversee and grant building permits.⁷⁰ There are twelve city councils and fifty-five district councils.⁷¹ Six of these are unitary councils that prepare Unitary Plans, combining the Regional and District Plans.⁷² The local authorities also have the authority to establish local or community boards to represent the community's interests.⁷³ The local governments have the power to set out land use policies as per the Local Government Act of 2002.⁷⁴

New Zealand has been significantly affected by the housing crisis. Between 2011 and 2021, the median house price rose by approximately 136%.⁷⁵ The household economic growth did not increase at the same rate as housing prices, resulting in housing becoming a significant financial strain or unaffordable altogether to a large group of individuals.⁷⁶ New Zealand also experienced a

⁶⁵ *The Governance of Land Use: Country Fact Sheet New Zealand*, OECD (2017), <http://dx.doi.org/10.1787/9789264268609-en>.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*; see also Local Government Act 2002, s 14(1)(g) (N.Z.) (“[A] local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets . . .”).

⁷⁵ Ryan Greenaway-McGrevy, *New Zealand's Bipartisan Housing Reforms Offer a Model to Other Countries*, BROOKINGS (Jan. 24, 2022), <https://www.brookings.edu/articles/new-zealands-bipartisan-housing-reforms-offer-a-model-to-other-countries/>.

⁷⁶ *Id.*

disproportionate increase in population in relation to available or new housing units, resulting in a housing shortage.⁷⁷

Auckland is by far the fastest-growing city in New Zealand.⁷⁸ The population in Auckland is expected to increase from 1.7 million to 2.3 million over the next three decades.⁷⁹ Data analysts predict that around forty percent of New Zealanders will live in Auckland by the middle of the century.⁸⁰ This rapid growth resulted in a significant constraint on housing availability in the city.⁸¹ A vast majority of the population, approximately ninety percent, lives in the urban area of Auckland.⁸² Historically, Auckland's strategy to manage this population growth resulted in suburban growth, sprawl, and low-density development; however, recently, Auckland reformed its approach to the growing population's impact on housing.⁸³ Auckland provides the opportunity to directly see how changing land use and zoning regulations can impact the housing market, which this Note will explore in the following section.

A. *Auckland, New Zealand Pre-Reform*

Historically, urban development in Auckland occurred in a low-density pattern of outward growth.⁸⁴ One reason for this outward movement was the cost differential between traditional development and the development of multi-story buildings.⁸⁵ Another explanation for this outward spread is the Auckland government's "construction of new roads, tramlines and infrastructure, as well as increased state intervention in the provision of housing[,]" which "led to increased

⁷⁷ *Id.* ("Census data reveals that New Zealand's population increased by 10.8% between 2013 and 2018, but the stock of occupied dwellings only increase by 6.6% over the same period . . .").

⁷⁸ Benjamin Felix Richardson, *Finance, Food, and Future Urban Zones: The Failure of Flexible Development in Auckland, New Zealand*, LAND USE POL'Y, AUG. 2022, at 1, 1.

⁷⁹ *Id.* at 2.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² L. HOFFMAN, AUCKLAND COUNCIL, A BRIEF HISTORY OF AUCKLAND'S URBAN FORM 4 (2019), <https://knowledgeauckland.org.nz/media/1419/a-brief-history-of-aucklands-urban-form-2019-web.pdf> ("The main feature of human settlement in the Tāmaki Makaurau / Auckland region has been the development of a substantial urban area . . . in which approximately 90 per cent of the regional population live.").

⁸³ *Id.*

⁸⁴ AUCKLAND REGIONAL COUNCIL, AUCKLAND REGIONAL POLICY STATEMENT ch. 2, at 9 (1999), <http://www.aucklandcity.govt.nz/council/documents/regionalplans/aucklandcouncilregionalpolicystatement/ACRPS%20Policy.pdf>.

⁸⁵ MINISTRY FOR THE ENV'T & STATS NZ, OUR LAND 2021: NEW ZEALAND'S ENVIRONMENTAL REPORTING SERIES 13 (2021), <https://environment.govt.nz/assets/Publications/our-land-2021.pdf> ("Most urban expansion is outwards onto productive land rather than upwards in multi-story buildings because it is cheaper to develop flat land than build on less productive hilly sites." (citation omitted)).

suburbanisation across much of the Auckland area” in the 1930s.⁸⁶ The main focus of the first Labor Government’s state housing program was constructing single-unit suburban homes.⁸⁷ This desire for single-family homes continued to spread as the reliance on personal vehicles increased.⁸⁸ Most people during this time desired detached houses with large lots of land, which caused rapid urban expansion and a dispersed urban form—or in other words, it created an urban sprawl problem.⁸⁹ One study conducted in 2015 found that land use regulation in Auckland could account for fifteen to fifty-six percent of the cost of a home in Auckland, which is far greater than the other six cities included in the study.⁹⁰

The Auckland Regional Policy Statement took effect on August 31, 1999.⁹¹ The New Zealand national government passed the Resource Management Act of 1991 which required every city to have a Regional Policy Statement.⁹² The document’s purpose was to manage the use, development, and protection of the natural and physical resources of the region.⁹³ The Resource Management Act defined “natural and physical resources” as “land, water, air, soil, minerals, and energy, all forms of plants and animals (whether native to New Zealand or introduced), and all structures.”⁹⁴ It acted as Auckland’s primary land use planning document until it was supplemented by the Auckland Unitary Plan, which is discussed later in this Note.⁹⁵

An important section in the Policy Statement is the Auckland Regional Growth Strategy. The Auckland Regional Growth Strategy is critical because it focuses on how the city should responsibly manage growth and addresses Auckland’s housing shortage.⁹⁶ The council establishes critical features of the growth concept.⁹⁷ These features include promoting quality compact urban environments, containing growth within the existing metropolitan area, and

⁸⁶ HOFFMAN, *supra* note 82, at 35 (providing a timeline of urban development in Auckland).

⁸⁷ *Id.* at 36.

⁸⁸ *Id.* at 39.

⁸⁹ *Id.*

⁹⁰ K. LEES, SENSE PARTNERS, QUANTIFYING THE IMPACT OF LAND USE REGULATION: EVIDENCE FROM NEW ZEALAND 5 (2017), https://thehub.sia.govt.nz/assets/documents/Impact_land_use-fullreport_110717.pdf.

⁹¹ AUCKLAND REGIONAL COUNCIL, *supra* note 84, intro., at 3.

⁹² *Id.* ch. 1, at 1 (“The Auckland Regional Council (ARC) has prepared the RPS in accordance with the provisions of the RM Act.”); *see also* Resource Management Act 1991, ss 59–62, sch 1 (N.Z.) (establishing the requirements of preparing a regional policy statement).

⁹³ AUCKLAND REGIONAL COUNCIL, *supra* note 84, ch. 1, at 1.

⁹⁴ Resource Management Act 1991, s 2(1) (N.Z.); *see also* AUCKLAND REGIONAL COUNCIL, *supra* note 84, ch. 1 (describing the requirements that must be satisfied under the Resource Management Act).

⁹⁵ *Auckland Unitary Plan Fact Sheet 4*, N.Z. MINISTRY FOR THE ENV’T (Aug. 2013), <https://environment.govt.nz/assets/Publications/Files/factsheet-4.pdf>.

⁹⁶ AUCKLAND REGIONAL COUNCIL, *supra* note 84, ch. 2, at 4–6.

⁹⁷ *Id.*

creating higher-density mixed-use communities.⁹⁸ It is evident that the council is trying to address both environmental and social harms resulting from the previous strategy of low-density sprawl by focusing on medium- and higher-density development within the existing urban area.⁹⁹ The council also lays out six strategic policies: urban containment, urban structure, urban design, land use and transport integration, infrastructure, and rural areas.¹⁰⁰

As part of the Auckland Regional Policy Statement's urban containment strategic policy, the Auckland Council established the Auckland Metropolitan Urban Limits.¹⁰¹ The Metropolitan Urban Limits defined the boundary of the urban area.¹⁰² One study found that land within this boundary was ten times more expensive than land beyond.¹⁰³ Metropolitan Urban Limits have been used throughout Auckland's history, so this concept is not new.¹⁰⁴ However, the historical purpose for its use was to avoid inefficient and expensive provisions of urban development, but the intention of its use within the Policy Statement seems more focused on protecting the environment outside of the region.¹⁰⁵ The council stated in the Policy Statement that it believes a large majority of growth will be contained within the Metropolitan Urban Limits it established.¹⁰⁶ The council included a map in the statement that outlines the Metropolitan Limits, also shown in Figure 1 below. It is evident from the map that the council reserved large portions of the city for metropolitan and urban use.

⁹⁸ *Id.* ch. 2, at 5.

⁹⁹ *Id.* ("By 2050, more than a quarter of the population (more than 500,000 people) could be living in higher density, multi-unit accommodation compared with less than an eighth or 125,000 people in 1996.")

¹⁰⁰ *Id.* ch. 2, at 24.

¹⁰¹ Arthur Grimes & Yun Liang, *Spatial Determinants of Land Prices: Does Auckland's Metropolitan Urban Limit Have an Effect?*, 2 *APPLIED SPATIAL ANALYSIS & POL'Y* 23, 24 (2009).

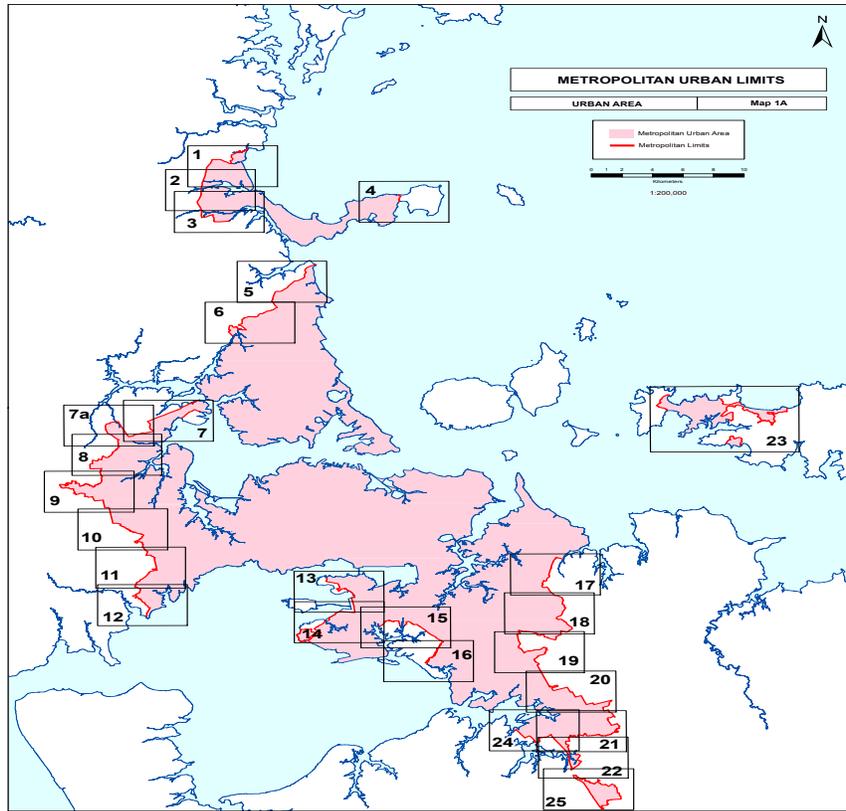
¹⁰² *Id.* at 24.

¹⁰³ *Id.* at 40 (providing empirical research to show the impact of the Metropolitan Urban Limit's effect on land prices in Auckland, New Zealand).

¹⁰⁴ *Id.* at 25–27.

¹⁰⁵ *Id.* at 27.

¹⁰⁶ AUCKLAND REGIONAL COUNCIL, *supra* note 84, ch. 2, at 51 ("More than 70% of total growth within the Auckland region up to 2050 will be contained within the Metropolitan Urban Limits . . .").

*Figure 1*¹⁰⁷

B. Auckland, New Zealand Post-Reform

In 2016, Auckland passed the Auckland Unitary Plan, which is still in operation today.¹⁰⁸ The vision behind implementing the plan is for Auckland to become the most livable city in the world.¹⁰⁹ The Unitary Plan replaced the Policy Statement discussed in the previous section as well as the twelve district and

¹⁰⁷ AUCKLAND REGIONAL COUNCIL, AUCKLAND REGIONAL POLICY STATEMENT MAP SERIES 1 - METROPOLITAN URBAN LIMITS (2014), <http://www.aucklandcity.govt.nz/council/documents/regionalplans/aucklandcouncilregionalpolicystatement/ACRPS%20Map%20Series%201%20-%20Index.pdf> (showing the Metropolitan Urban Limits created under the Auckland Regional Policy Statement).

¹⁰⁸ *Proposed Auckland Unitary Plan*, AUCKLAND COUNCIL (Nov. 15, 2016), <https://new.aucklandcouncil.govt.nz/content/dam/ac/docs/unitary-plan/notices/public-notice-operative-part.pdf>.

¹⁰⁹ *Id.*

regional plans used in Auckland.¹¹⁰ The Unitary Plan guides land development by determining what types of construction are suitable for which areas.¹¹¹ To create a more cohesive approach to regulating land development, the plan combined the twelve regional councils into one unitary council that governs all of Auckland.¹¹² The Auckland Council seemingly recognized that the housing shortage was caused by an imbalance between demand, which was growing rapidly, and supply, which was significantly constrained by zoning and land use rules. Even though the council recognized the need for more housing, they also understood the importance of protecting the environment and agricultural land.¹¹³ With these competing views in mind, the council emphasized the intensification of already inhabited areas, restricting the spread of residential housing moving further outward.¹¹⁴ The Unitary Plan upzoned large regions within the metropolitan area of Auckland.¹¹⁵ The Unitary Plan established four different residential zones: terrace housing and apartments, mixed housing urban, mixed housing suburban, and single house.¹¹⁶ Each zone is governed by a different set of land use regulations, which allows the various zones to be treated differently to maximize the use of the available land.¹¹⁷ The Auckland Council estimated that the new zones increased capacity for new dwellings by over 300%.¹¹⁸ This strategy achieved the council's goal of increasing available land for the construction of new housing, not by expanding the metropolitan limits established under the previous policy statement, but by increasing the permitted density within the

¹¹⁰ *What Is the Auckland Unitary Plan?*, AUCKLAND COUNCIL, <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/unitary-plan/Pages/what-is-the-auckland-unitary-plan.aspx> (last visited Nov. 7, 2025).

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ See AUCKLAND COUNCIL, *Tāhuhu whakaruruhau ā-taone - Urban Growth and Form*, in AUCKLAND UNITARY PLAN OPERATIVE IN PART ch. B2.1(6)–(7) (Nov. 3, 2025), <https://unitaryplan.aucklandcouncil.govt.nz/images/Auckland%20Unitary%20Plan%20Operative/Chapter%20B%20RPS/B2%20Urban%20Growth%20and%20form.pdf> (noting it is important that growth “maintains and enhances the quality of the environment, both natural and built” and “maintains opportunities for rural production”).

¹¹⁴ *Id.* ch. B2.1(3) (emphasizing the importance that growth “optimises the efficient use of existing urban area”).

¹¹⁵ See UCLA HOUSING VOICE: *Episode 45: What Happened When Auckland Upzoned Everywhere with Ryan Greenaway-McGrevy* (Spotify, Mar. 8, 2023); see also Ryan Greenaway-McGrevy et al., *The Effect of Upzoning on House Prices and Redevelopment Premiums in Auckland, New Zealand*, 58 URB. STUD. 959, 960 (2021) (“Our study is based on a policy intervention that upzoned large areas within the metropolitan region of Auckland, New Zealand (NZ).”).

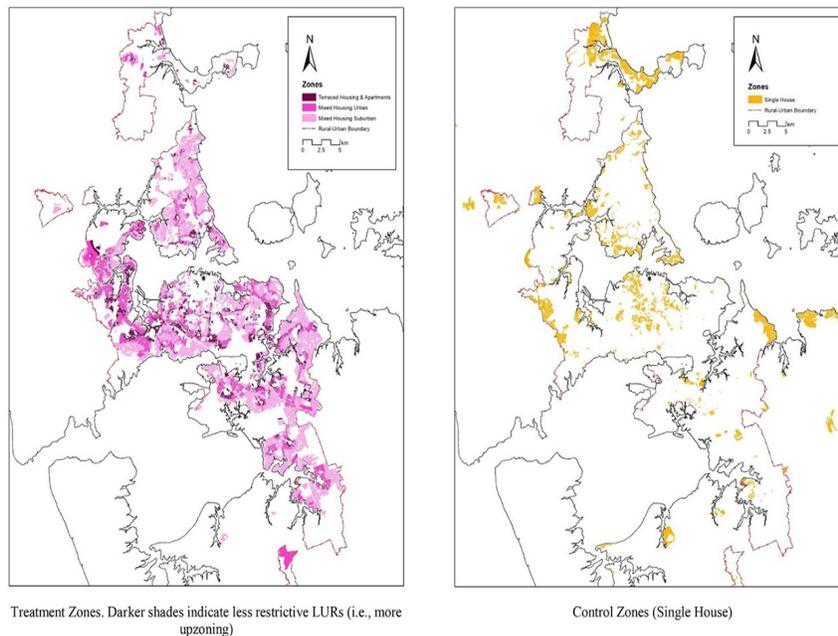
¹¹⁶ Greenaway-McGrevy et al., *supra* note 115, at 963.

¹¹⁷ *Id.* (“For example, between five and seven storeys and a maximum site coverage ratio of 50% is permitted in *Terrace Housing and Apartments*, whereas only two storeys and a coverage ratio of 35% is permitted in *Single House*.”).

¹¹⁸ *Id.*

already established boundaries.¹¹⁹ This is evident by comparing the map, labeled Figure 2 below, depicting the residential zones in Auckland,¹²⁰ to the map establishing the metropolitan limits under the policy statement, labeled Figure 1.¹²¹ A comparison of the two maps shows that the limits have not changed, but an increase in zoned capacity resulted from the new zones under the Unitary Plan. The creation of the zones allowed the Auckland government to reduce the area dedicated exclusively to single-family detached homes while also providing fewer restrictions to creating apartments and multifamily homes—providing more housing on a given parcel of land. The Auckland government's emphasis on the construction of apartments and multifamily homes is apparent by the sheer amount of land zoned specifically for these types of homes.¹²²

*Figure 2*¹²³



Now that the large-scale upzoning in Auckland, enacted by the Unitary Plan, accomplished the goal of significantly increasing the zoned capacity (i.e., the number of homes that can be built on the existing land), it is important to examine

¹¹⁹ *See id.*

¹²⁰ *Id.* at 964.

¹²¹ AUCKLAND REGIONAL COUNCIL, *supra* note 107.

¹²² Greenaway-McGrevy et al., *supra* note 115, at 963 (“*Single House* . . . covers 25.5% of residential land.”).

¹²³ These maps from the Greenaway-McGrevy et al. study depict the residential zones in Auckland. *Id.* at 964.

its impact on the housing market itself. In other words, did the increase in zoned capacity lead to increased production of housing units and ultimately to a reduction in housing costs?

The answer appears to be a resounding yes. First, housing prices in Auckland increased significantly slower than in other cities in New Zealand.¹²⁴ One study found that since 2016 rents in Auckland have increased from 10% to 20%, whereas Wellington, a neighboring city in New Zealand, experienced an increase of around 40%.¹²⁵ It also found that housing prices were about 20% higher in Auckland and approximately 70% higher outside of Auckland.¹²⁶ Second, once adjusted for inflation, housing costs in Auckland actually declined in real (i.e., inflation-adjusted) terms.¹²⁷

IV. MINNEAPOLIS, MINNESOTA

In order to understand Minneapolis, Minnesota's system of land use and zoning laws as well as the United States' broader system can offer guidance. In the United States, the Constitution grants states the authority to enact land use and zoning laws.¹²⁸ These laws fall within the police powers left to the states by the Constitution.¹²⁹ The states mainly delegated the making of these laws to local governments.¹³⁰ However, the federal government can limit land use and zoning regulations due to the broad power to regulate interstate commerce which Article I § 8 of the Constitution gives the legislative branch.¹³¹ Congress uses this power to regulate private land use related to interstate commerce by passing legislation protecting natural resources.¹³² Unsurprisingly, some private landowners in the United States would challenge the legality of zoning regulations because they feel

¹²⁴ Michael Read, *How Auckland Took on the NIMBYs and Won*, THE AUSTRALIAN FIN. REV. (May 30, 2023, 10:04 AM), <https://www.afr.com/policy/economy/how-auckland-took-on-the-nimbys-and-won-20230522-p5da9o>.

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ David Chaston, *In Real Terms, Auckland Housing Is in a Bear Market Having Fallen More than 20% Since a Peak 10 Months Ago on an Inflation Adjusted Basis*, INTEREST.CO.NZ (Sep. 20, 2022, 11:31 AM), <https://www.interest.co.nz/property/117689/real-terms-auckland-housing-bear-market-having-fallen-more-20-peak-10-months-ago> (providing graphs and charts that show the change in Auckland's real housing prices from December 2011 to August 2022).

¹²⁸ *The Basics of Land Use and Zoning Law*, *supra* note 19.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ John R. Nolon, *Historical Overview of the American Land Use System: A Diagnostic Approach to Evaluating Governmental Land Use Control*, 23 PACE ENV'T L. REV. 821, 825–26 (2006); *see also* U.S. CONST. art. I, § 8.

¹³² Nolon, *supra* note 131, at 825–26 (providing examples of legislation passed by Congress, Clean Water Act of 1972, Coastal Zone Management Act of 1972, Endangered Species Act of 1973, Comprehensive Environmental Response, Compensation and Liability Act of 1980).

that the government is telling them what they can and cannot do with their land.¹³³ The U.S. Supreme Court considered the constitutionality of municipalities enacting land use and zoning regulations in *Euclid v. Ambler Realty Co.*,¹³⁴ where the Court held that “the separation of land uses among zoning districts did accomplish a legitimate public purpose.”¹³⁵ However, historically, this power has not been used for good; lawmakers used this power to separate different races or classes of people.¹³⁶ In response to the U.S. Supreme Court’s decision in *Buchanan v. Warley*,¹³⁷ striking down policies that explicitly zone separate residential areas for blacks and whites, local governments enacted policies that made it illegal to build anything other than single-family homes.¹³⁸ These policies had the same effect as the explicit zoning separations because they kept most black people, and all low-income people, from living in certain areas due to the lack of affordable single-family housing.¹³⁹ The Supreme Court held that these policies are legal, and many states have not reevaluated the policies put in place decades ago, resulting in a shortage of available housing and inefficient use of available land.¹⁴⁰

Like most states in the United States, Minnesota has largely delegated land use and zoning regulations to its local governments, with the state and federal government still having some, but very little, regulatory control over these regulations.¹⁴¹ Minnesota delegates land use planning authority to municipalities in Minnesota Statute § 462.351¹⁴² and the power to create zoning ordinances to

¹³³ *Id.*

¹³⁴ *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926) (ruling municipal zoning regulations are constitutional, unless they are clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare).

¹³⁵ Nolan, *supra* note 131, at 831.

¹³⁶ See Christopher Silver, *The Racial Origins of Zoning in American Cities*, in *URBAN PLANNING AND THE AFRICAN AMERICAN COMMUNITY: IN THE SHADOWS* 23 (June Manning Thomas and Marsha Ritzdorf eds., 1997) (providing an in-depth discussion on the use of zoning and land use laws in the United States to keep certain people out of certain neighborhoods). See generally RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017) (discussing how the laws and policy decisions passed by the local, state and federal governments led to racial zoning).

¹³⁷ *Buchanan v. Warley*, 245 U.S. 60 (1917) (ruling that a state’s police power does not authorize it to prevent the sale and occupancy of property on the basis of race).

¹³⁸ Richard D. Kahlenberg, *How Minneapolis Ended Single-Family Zoning*, *THE CENTURY FOUND.* (Oct. 24, 2019), <https://tcf.org/content/report/minneapolis-ended-single-family-zoning/>.

¹³⁹ *Id.*

¹⁴⁰ *Id.*; see also *Village of Euclid*, 272 U.S. at 365 (ruling municipal zoning regulations are constitutional, unless they are clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare).

¹⁴¹ Nolan, *supra* note 131, at 830 (“In the U.S., virtually all 50 states . . . legislatures have passed relatively similar zoning enabling laws that delegate the authority to municipalities to regulate private land uses.”).

¹⁴² MINN. STAT. § 462.351 (2014).

municipalities in Minnesota Statute § 462.357.¹⁴³ Within the latter statute, Minnesota specifically lays out what a municipality can and cannot regulate and the procedures it must use to implement those regulations.¹⁴⁴

Minneapolis is a major city in Minnesota that has experienced a steady population increase overtime. Data shows that the Minneapolis population will grow as much as ten percent per decade, reaching 3.7 million by 2040.¹⁴⁵ In order to meet the housing needs of this new influx of people in the city, Minneapolis will need to add more than an estimated 14,000 homes each year for the next two decades.¹⁴⁶

A. Minneapolis, Minnesota Pre-Reform

Like most of the United States, Minneapolis's laws and policies historically favored single-family detached housing and disfavored apartments.¹⁴⁷ This preference for single-family housing is evident in Minneapolis's land use and zoning laws. Single-family zoning took up around three-quarters of Minneapolis's urban land, resulting in low density in these areas.¹⁴⁸ Minneapolis implemented its first zoning code in 1924, shortly after the U.S. Supreme Court's ruling in *Euclid*.¹⁴⁹ Minneapolis adopted its first comprehensive plan in 1954 after the city leaders realized they needed a plan to deal with the fast population growth.¹⁵⁰ In 1962, the city leaders, believing it was a necessity, updated the comprehensive plan.¹⁵¹ Within the 1962 plan, an included land use map showed residential densities, locations of parks and playgrounds, institutions, offices, commercial development, industry, and warehouses.¹⁵² The city again updated its plan in

¹⁴³ MINN. STAT. § 462.357 (2014).

¹⁴⁴ *Id.*

¹⁴⁵ Kathleen McCormick, *Rezoning History: Influential Minneapolis Policy Shift Links Affordability, Equity*, LINCOLN INST. OF LAND POL'Y (Jan. 16, 2020), <https://www.lincolninst.edu/publications/articles/2020-01-rezoning-history-minneapolis-policy-shift-links-affordability-equity>.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* (“Many were grandfathered into the single-family zones, which now encompass 70 percent of the city's 54 square miles.”).

¹⁴⁸ *Id.*

¹⁴⁹ Alex Cecchini, *Zoning's Impact on Minneapolis Form*, STREETS MN (Feb. 12, 2015), <https://streets.mn/2015/02/12/zonings-impact-on-minneapolis-form/>.

¹⁵⁰ MINNEAPOLIS CITY COUNCIL, THE MINNEAPOLIS PLAN FOR SUSTAINABLE GROWTH (2009), <https://minneapolis2040.com/media/1836/the-minneapolis-plan-for-sustainable-growth.pdf>.

¹⁵¹ *Id.* at i-7 (“In 1962, city leaders said that a plan was not only desirable, but necessary in order to: 1) manage demands on increasingly scarce resources and achieve goals efficiently, 2) make sure social values are considered when allocating resources among competing uses, 3) provide a framework to coordinate complex private-public decisions, and 4) draw out majority interests, not just those of small interest groups.”).

¹⁵² *Id.*

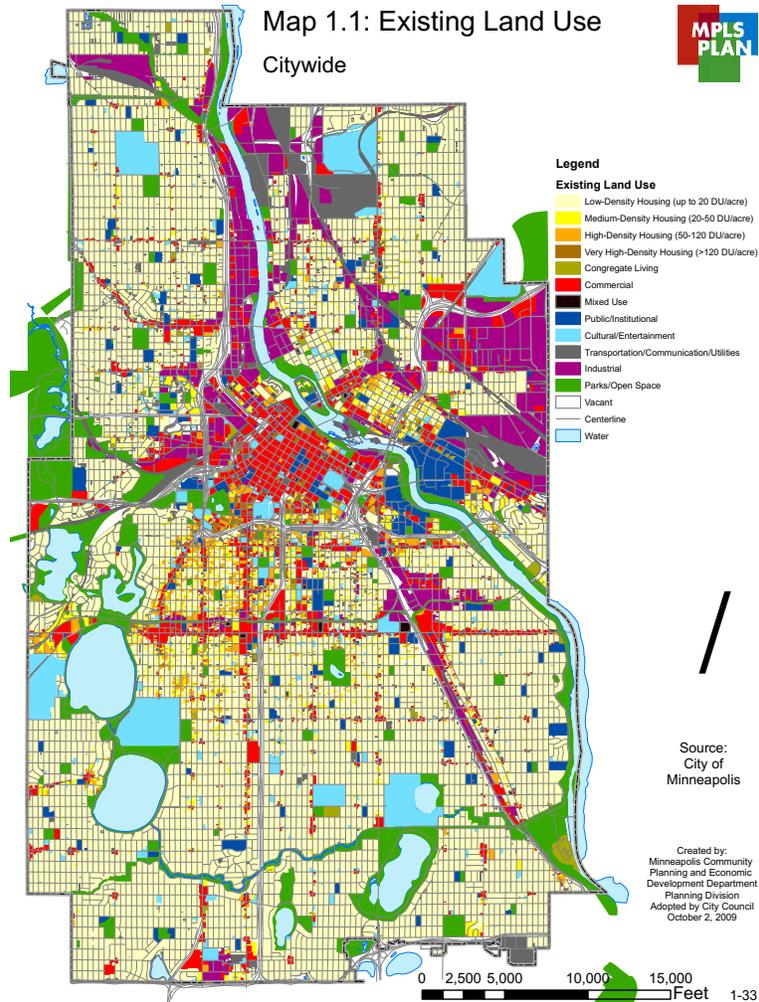
1980, intending to allow the population to live within its metropolitan area.¹⁵³ The city leaders attempted this by creating new housing along the central riverfront, creating seven community-level commercial centers with medium or high density adjacent to or part of the center, and making several other changes.¹⁵⁴ The city leaders again created a new plan in 2000 and established the zones in the map included below as Figure 3.¹⁵⁵ From this map, it is clear that most of the city—around seventy percent—was zoned for low density housing—in other words, single-family housing.¹⁵⁶

¹⁵³ *Id.* at i-7 to i-8 (“[T]he city’s share of the metropolitan area population had dropped from 49 percent in 1960 to 26 percent in 1980.”).

¹⁵⁴ *Id.* at i-8.

¹⁵⁵ *Id.*

¹⁵⁶ Kahlenberg, *supra* note 138 (“It had set aside 70 percent of its residential land for single-family homes.”).

Figure 3¹⁵⁷

In 2009, the Minneapolis City Council approved a new land use and zoning plan known as the Minneapolis Plan for Sustainable Growth, the last update before the significant reform enacted in 2020, discussed in the next section.¹⁵⁸ The plan discussed eleven major topics: land use, transportation, housing, economic

¹⁵⁷ MINNEAPOLIS CITY COUNCIL, *supra* note 150, at 1-33.

¹⁵⁸ *Id.* at ii-4.

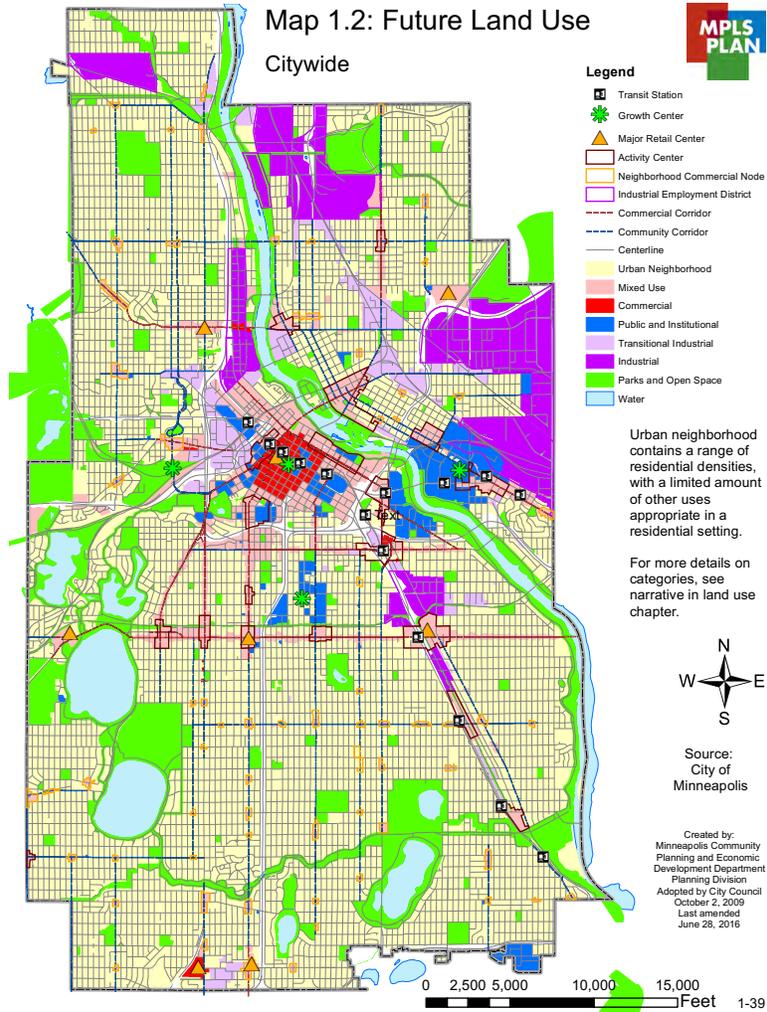
development, public services and facilities, environment, open space and parks, heritage preservation, arts and culture, urban design, and implementation.¹⁵⁹ The new plan established seven main land use categories: urban neighborhood, general commercial, mixed-use, public and institutional, open space and parks, industrial, and transitional industrial.¹⁶⁰ One of the goals of the new plan was to “[e]stablish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.”¹⁶¹ Even though this was an established goal of the plan, the zoning map below shows very few changes to the designated zones under the 2000 plan. This means that similar to the 2000 plan, most of the available land in the city was zoned for low-density single-family homes.

¹⁵⁹ *Id.* at i-3 to i-4.

¹⁶⁰ *Id.* at 1-8 to 1-9.

¹⁶¹ *Id.* at 1-3.

Figure 4¹⁶²



¹⁶² *Id.* at 1-39.

B. Minneapolis, Minnesota Post-Reform

Minneapolis enacted the Minneapolis 2040 comprehensive plan in 2020.¹⁶³ One of the most prominent goals of this plan was to enhance the housing available within the city.¹⁶⁴ With this plan, Minneapolis became the first major U.S. city to eliminate single-family zoning in every neighborhood.¹⁶⁵ This change in regulation allows the construction of duplexes and triplexes at a citywide level, enabling the availability of more housing and the efficient use of available land.¹⁶⁶ The comprehensive plan contains four other major reforms outside of the elimination of single-family housing zoning: It allows the construction of three-to-six-story buildings, eliminates off-street minimum parking requirements—which was a challenge to building low-cost housing due to the costly nature of the requirement—establishes inclusionary zoning which requires new apartment developments to set aside ten percent of units for moderate-income households¹⁶⁷ and increases funding for affordable housing.¹⁶⁸

Because the plan was recently enacted, and due to the impact of the COVID-19 pandemic, the impact of the plan on the market is not clear; however, some data is available. Average rents in Minneapolis in 2022 were down more than twenty percent compared to rents in 2017.¹⁶⁹ This is in complete contrast to rising rental costs in other similar, major United States cities like Omaha, Columbus, and Indianapolis, which have no significant land use and zoning reform.¹⁷⁰ One study found that from 2020 through 2022, Minneapolis averaged fifty-seven permits for two-to-four-unit housing, an increase of forty-five percent over the annual average for 2017 through 2019, shown by Figure 5 below.¹⁷¹ However, some data indicates that most new two-to-four-unit housing is in areas not previously zoned for single-family housing.¹⁷²

¹⁶³ CITY OF MINNEAPOLIS DEP'T OF CMTY. PLAN. & ECON. DEV., MINNEAPOLIS 2040 — THE CITY'S COMPREHENSIVE PLAN (2019), <https://minneapolis2040.com/>; *see also* McCormick, *supra* note 145.

¹⁶⁴ CITY OF MINNEAPOLIS DEP'T OF CMTY. PLAN. & ECON. DEV., *supra* note 163, at 19.

¹⁶⁵ McCormick, *supra* note 145.

¹⁶⁶ Minneapolis, Minn., Ordinance 2019-048 (Nov. 16, 2019); *see also* McCormick, *supra* note 145.

¹⁶⁷ Minneapolis, Minn., Ordinance 2019-067 (Dec. 21, 2019).

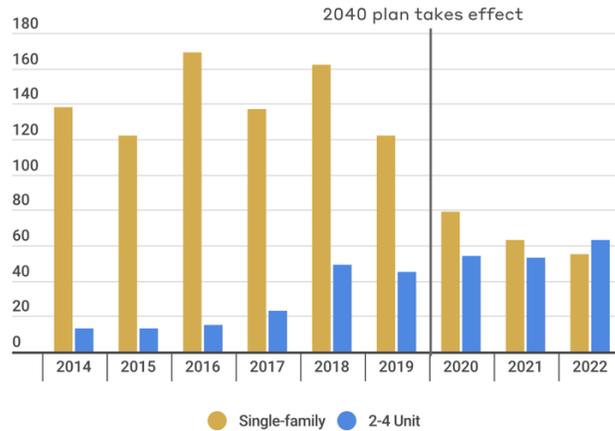
¹⁶⁸ Kahlenberg, *supra* note 138.

¹⁶⁹ John Burn-Murdoch, *Repeat After Me: Building New Homes Reduces Housing Costs for All*, FIN. TIMES (Sep. 15, 2023), <https://www.ft.com/content/86836af4-6b52-49e8-a8f0-8aec6181dbc5> (“Adjusted for local earnings, average rents in the city are down more than 20 per cent since 2017, while rising in the five other similarly large and growing cities.”).

¹⁷⁰ *Id.*

¹⁷¹ *Comprehensive Zoning Reform in Minneapolis, MN*, BIPARTISAN POL'Y CTR. (Oct. 3, 2023), <https://bipartisanpolicy.org/blog/comprehensive-zoning-reform-in-minneapolis-mn/>.

¹⁷² *Id.*

Figure 5¹⁷³**Housing Permits in Minneapolis by Type**

Source: Department of Housing and Urban Development.

Although early results support the contention that Minneapolis’s new comprehensive plan has had a positive impact on supply and affordability, there are still several problems and questions surrounding the plan. For example, the plan did not require zoning laws to increase the allowable heights or sizes of buildings on these lots.¹⁷⁴ This means that even though developers can build multiple units on these lots, such developments may face substantial challenges because the regulations require developers to build these multi-unit structures following specifications created with single-family homes in mind.¹⁷⁵ Another obstacle to seeing this plan in action is the pending litigation involving the comprehensive plan. In June of 2022, the Hennepin County District Court enjoined the city from any ongoing implementation of the 2040 Plan.¹⁷⁶ The plaintiffs in that case brought the action seeking a declaration that they made a sufficient prima facie showing that the 2040 Plan violated the Minnesota Environmental Rights Act.¹⁷⁷ The plaintiffs specifically argued that the 2040 Plan “is likely to cause the pollution, impairment, or destruction of the air, water, land, or other natural resources located within the state[.]” meaning the city must

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ State v. City of Minneapolis, No. 27-CV-18-19587, 2022 Minn. Dist. LEXIS 9203, at *1–3 (June 17, 2022).

¹⁷⁷ *Id.*

conduct an environmental impact study.¹⁷⁸ The district court agreed with the plaintiffs and required the city to halt implementation of the 2040 Plan until the city satisfied the Minnesota Environmental Rights Act requirements or established a valid affirmative defense.¹⁷⁹ The court's ruling requires Minneapolis to reinstate portions of the 2030 comprehensive plan and the pre-December 4, 2018, land use ordinances.¹⁸⁰ This ruling, forcing the reenactment of the 2030 plan, will likely significantly decrease the city's development.¹⁸¹ The city will, however, continue to enforce and implement the aspects of the Minneapolis 2040 comprehensive plan and current land use ordinances that were not affected by the court's order.¹⁸²

V. RECOMMENDATIONS

As discussed above, there is simply not enough new housing being built to keep up with the growing population. The legal community can help alleviate some of the pressure by examining the current state of land use and zoning regulations. It is time for land use and zoning laws in metropolitan areas in first-world countries to undergo modernization to help combat the undersupply of housing, which creates the housing affordability problem many currently face. Many cities still use a decades-old frameworks of land use and zoning laws, even though the current needs differ significantly today than in the past. If a government loosens the reins on restrictions regarding the construction of housing, investors and builders alike will want to build more housing, resulting in lower housing prices. By simply examining the relationship between supply and demand, over the long term, the increase in the supply of housing will cause the housing market to come closer to an equilibrium, resulting in more affordable housing. Lawmakers and the legal field need to examine how impactful the implementation of less restrictive zoning laws was for cities like Auckland and Minneapolis, which dared to step outside of the norm to find a solution to the genuine problem plaguing their cities. Both Auckland and Minneapolis took the position to utilize up zoning, intensifying density in their metropolitan areas, to

¹⁷⁸ Susan Du, *Minneapolis, Developers to Lose Millions Without 2040 Plan as Judge's Order Takes Effect*, MINN. STAR TRIBUNE (Nov. 5, 2023, 4:35 PM), <https://www.startribune.com/minneapolis-developers-to-lose-millions-without-2040-plan-as-judges-order-goes-into-effect/600317445/>.

¹⁷⁹ *State v. City of Minneapolis*, 2022 Minn. Dist. LEXIS 9203, at *40.

¹⁸⁰ Amended Order Granting Plaintiff's Motion for Temporary Injunction, *State v. City of Minneapolis*, No. 27-CV-18-19587 (Minn. Dist. Ct. Sep. 5, 2023).

¹⁸¹ See WCCO Staff, *Minneapolis Appeals Recent Ruling that Struck Down 2040 Plan*, CBS NEWS MINN. (Sep. 15, 2023, 3:47 PM), <https://www.cbsnews.com/minnesota/news/minneapolis-appeals-recent-ruling-striking-down-2040-plan/> ("Since the implementation of the 2040 plan, the city says it's been able to build 256 affordable units that were not permitted under the 2030 plan.").

¹⁸² Amended Order Granting Plaintiff's Motion for Temporary Injunction, *State v. City of Minneapolis*, No. 27-CV-18-19587 (Minn. Dist. Ct. Sep. 5, 2023).

increase their housing supply. However, Minneapolis took the plan laid out in Auckland further by completely removing single-family housing zones.

By examining the impact of implementing less restrictive land use and zoning regulations in Auckland and Minneapolis, it seems that the best way forward, regarding shaping land use and zoning laws, is consistent use of regulations that not only allow the construction of multifamily dwellings but also give the investors and developers more freedom when it comes to how they want to construct these dwellings. Lawmakers need to make zones available to construct non-single-family homes to use the land designated for residential purposes efficiently. However, this alone will likely not solve the problem. Arguments that lawmakers should allow developers to build these structures cost-efficiently are equally important.¹⁸³ To the extent that zoning or other municipal regulations impose higher costs on developers, they would drive up the price of producing new housing. This would result in some project cancellations because their construction is not profitable—this reduced supply will hurt homebuyers and renters because it will increase the price of existing housing. As lawmakers plan, creating regulations that use the land efficiently and make construction cost-efficient is crucial. For example, regulations should decrease the amount of land designated as strictly single-family zoning but should also lower the minimum lot sizes, reduce setbacks in certain areas, and reduce parking requirements.

One of the biggest takeaways from the land use and zoning reform in Auckland and Minneapolis is the realization that it can be done. Both cities, and many others, show that passing less restrictive land use and zoning laws is possible despite the strong resistance from several groups. When creating these new regulations, both cities' councils took a collaborative approach considering feedback and concerns from the city residents. The councils managed to consider the concerns of the Not In My Backyard supporters as well as environmentalists to come up with a plan that achieves the goal of creating more housing while still respecting the environmental impacts and the desire of individuals not to drastically change their neighborhoods. It is important for cities that are looking to follow the lead of Auckland and Minneapolis to not only implement the land use and zoning reform but also follow their collaborative approach to minimize the pushback from residents. This does not mean that all residents will agree with the reform, but Auckland and Minneapolis both show that it is possible and even beneficial to go against the concerns of some residents to increase the density of residential areas.

¹⁸³ *What Are Zoning and Land-Use Regulations and How Do They Affect Housing Supply?*, BIPARTISAN POL'Y CTR. (Jan. 25, 2022), <https://bipartisanpolicy.org/explainer/what-are-zoning-and-land-use-regulations-and-how-do-they-affect-housing-supply/> (“In fact, regulations at all levels of government, including local land use and zoning, account for an estimated 24% of the total construction costs for single-family homes and 40% for multifamily homes.”).

VI. CONCLUSION

Major metropolitan areas in first-world countries are facing a serious problem regarding housing availability and affordability. Housing is an essential feature of life for all individuals, and, currently, there is simply not enough of it to go around. This shortage caused housing prices to skyrocket, making it difficult for many individuals to afford to purchase or rent a home. The basic economic concept of supply and demand tells stakeholders that if demand exceeds the available supply, the commodity will be sold at a premium. It also tells stakeholders that if supply exceeds demand, the commodity will be sold at a discount. The examples of Auckland and Minneapolis show that it is essential to tip the scale in the opposite direction to increase supply and bring the market to an equilibrium. The legal community can help this endeavor and create more supply by reimagining land use and zoning regulations. Housing availability will increase if the law makes it easier and more beneficial for developers to construct more housing. Auckland and Minneapolis show that if supply increases, the cost of housing will decrease. Still, lawmakers can restructure their land use and zoning laws not only to increase available housing but also to increase the cost efficiency of constructing new, high-density housing. Over the past four decades, land use and zoning regulations have favored the building of single-family homes, resulting in inefficient land use in many metropolitan areas in first-world countries. It is time for these cities to update their regulations to move from the archaic single-family home preference to structures that can house more significant numbers of people. It is up to lawmakers to lead this change by making the construction of these types of residences easier and more cost-efficient.

By looking at the reform in Auckland, Minneapolis, and several other cities in the world, this Note shows that implementing less stringent land use and zoning laws does increase the amount of non-single family residential developments. These global problems will not go away overnight but examining the current framework of land use and zoning laws is a step in the right direction. Even though factors like heightened interest rates and inflation have significant effects on the housing market, fixing these problems alone will not fix the housing market's biggest problem: housing availability. On the other hand, addressing land use and zoning laws directly impacts the availability of housing because it can allow the construction of more housing or significantly restrict the availability of housing depending on the type of regulation. If interest rates, inflation rates, or the cost of housing all decrease, the problem will still exist. A shortage of housing in the market for the number of people living in these cities would still continue to plague its residents.

It is time for all levels of government—local, state, and federal—to work together to help solve the housing affordability problem. Legislators must enact laws and regulations that encourage the building of non-single-family residential structures, which place more inventory in the market. The effects of implementing less restrictive land use and zoning laws may not have an immediate impact due to the time that it takes to build new high-density housing, but looking at the

impact of the reforms in Auckland and Minneapolis thus far will have an effect on housing availability and ultimately affordability in the long run.