Department of
CITY PLANNING

ATLANTA ZONING ORDINANCE UPDATE Quick Fixes

Atlanta Zoning Ordinance Update
"Quick Fixes" Phase I
Questions and Answers

On September 19, 2017, the City of Atlanta Department of City Planning (Department) in partnership with a group of consultants launched the community engagement component of the Zoning Ordinance Update "Quick Fixes" topics Phase I. The purpose of the "Quick Fixes" is to provide consistency with the City's Comprehensive Development Plan and other comprehensive planning processes, update consistency with state and federal law, and advance the health, safety and welfare of our citizens. To provide opportunities for engagement and understanding of the "Quick Fixes," the Department held two public forums and 10 open house sessions throughout the City. These public forums and open house sessions provided an opportunity for the community to sit down with planning staff on a one-on-one basis to ask questions and provide comments about the proposed Zoning Ordinance updates. Below, we offer specific answers to questions and comments received during the community engagement and public involvement process.

Topic 1: Accessory Structure Height

Question/Comment Number One:

Can pool equipment, generators, and solar batteries be included in the provisions of this topic?

Answer Number One:

Since the suggested inclusions are similar in use to the impact of HVAC systems, the City will make a recommendation to amend the proposed legislation to incorporate the suggested uses into the final language.

Question/Comment Number Two:

Can the terms accessory structure, accessory uses, and accessory dwelling units be defined within the Quick Fixes Phase I informational booklet, as well as, in the proposed final legislation?

Answer Number Two:

Currently, the definitions for the terms accessory structures or accessory uses, and accessory dwelling units exist in the adopted 1982 City of Atlanta's Zoning Ordinance. These terms are specifically defined in Section 16-29.001(2): Accessory uses or structures and Section 16-29.001(12)(a)(7): Dwelling: Accessory. Provided below are the specific definitions.

- ***Section 16-29.001(2): Accessory uses or structures:***

A use or structure of a nature customarily and subordinate to the principal use or structure and, unless otherwise specifically provided or authorized, on the same premises. "On the same premises" means on the same lot or on a contiguous lot in the same ownership. Where a building is attached to a principal building, it shall be considered a part thereof, and not an accessory building. Accessory uses as defined herein include those uses of public school property operated by third parties with permission of the Atlanta Board of Education or the local public school authority and that are reasonably associated with public schools, including without limitation: (i) programs for youth sports, scouting, arts, music, technology, language and cultural activities; (ii) programs that provide students, their families or the community with classes, information or assistance concerning language, technology, parenting, and /or social and cultural issues; (iii) fund raising activities that directly benefit school activities, programming and facilities including, without limitation, those fundraising activities providing additional funding for playing fields, art and music facilities, libraries, school sponsored trips and classroom needs whether for the system as a whole or an individual school; provided however that structures which are erected for proprietary purposes or that are not customarily associated with and subordinate to the public school use, such as telecommunications towers, must meet the requirements of the district where the structure is located.

- ***Section 16-29.001(12)(a)(7): Dwelling: Accessory****:*

A detached dwelling unit meeting the height requirement of section 16-28.004 and having a floor area of 750 square feet or less on the same lot as a primary dwelling. Accessory dwelling units are distinct dwelling units as defined in section 16-29.001(10)(a) with independent kitchen facilities.

  - ***Sec. 16-28.004. - Accessory uses and structures.***

    The following regulations and requirements apply to accessory uses and structures:

    (1) Except as otherwise specifically provided in this part, use of accessory buildings as dwellings or lodgings is prohibited.

    (2) Accessory buildings shall be constructed concurrent with or after construction of principal buildings.

(3) Accessory buildings in R-1 through R-5 districts shall not exceed 20 feet in height, shall not cover more than 25 percent of the area of the rear yard, shall not contain a total floor area greater than 30 percent of the main structure.

- ***Section 16-29.001(10)(a)***

Dwellings, lodgings and related terms: General terms:

Dwelling unit (apartment): A room or rooms connected together, constituting a separate, independent housekeeping establishment for a family, for owner occupancy or rental or lease on weekly or longer terms, physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent kitchen and sleeping facilities.

Topic 2: Accessory Structure Size

Question/Comment Number One:

I would like for a small house not to be penalized. Can an accessory structure be 750 square feet or 30% of the main structure, whichever is greater, but not to exceed 1,500 square feet (to restrict accessory structures for very big houses) while meeting applicable height and lot coverage restrictions?

Answer Number One:

The suggested change would represent a major policy change that is beyond the scope of a "Quick Fix." The proposed "Quick Fix" language for accessory structure size simply clarifies the current Zoning Ordinance to reflect the City's longstanding practice. The current regulations as described in Section 16-28.004(3), states that "accessory buildings in R-1 through R-5 districts shall not exceed 20 feet in height, shall not cover more than 25 percent of the area of the rear yard, shall not contain a total floor area greater than 30 percent of the main structure."

Question/Comment Number Two:

The square footage of an attic in terms of floor area ratio for the main house should be counted toward the 30% for the accessory structure. Porches or awnings that are open on two or more sides should not be counted as floor area ratio.

Answer Number Two:

The proposed language simply clarifies the Ordinance to reflect the City's longstanding practice. It does not change what is and is not counted. However, keep in mind that currently, Section 16-29.001(37) does establish the total amount of gross floor space which may be built on a lot, excluding basement space but including attic space as each provided by their individual

definitions, and excluding garage space and space contained within any accessory structure unless said accessory structure is used as a secondary dwelling unit.

Question/Comment Number Three:

The accessory structure size should be based on lot size and not the primary structure size. You can have two houses next door to each other like a one-story house and a two-story house. Based upon my interpretation of the code, the two-story house can have a large accessory structure because the square footage is twice the size of the one-story house. Though, the one-story house could sit on a larger lot. A very tiny house that sits on an acre lot size should be able to have a large accessory structure than a four story 5,000 square foot house sitting on a 10,000 square foot lot.

Answer Number Three:

This recommendation would be a major change from how the City currently regulates accessory structures. The proposed language simplify clarifies the Ordinance to reflect the City's longstanding practice. It does not change what is and is not counted. Keep in mind that the City of Atlanta's Residential Scale Ordinance adopted in 2007 (Z-17-44) limits the mass of a new residential building based on the lot size, zoning and topography. In existing neighborhoods, new structures will be compatible in height, scale and appearance with existing ones. The Residential Scale Ordinance was adopted to ensure that a larger house could not be built on smaller lots that do not conform to the lot requirements of the residential districts, in which conforming lots do.

Question/Comment Number Four:

I recommend that porches, basements and garages as accessory structures should not be counted toward area, or maybe there is another way to regulate accessory structure size (through other existing regulations such as lot coverage, floor area ratio, etc.).

Answer Number Four:

The proposed language simplify clarifies the Ordinance to reflect the City's longstanding practice. It does not change what is and is not counted. This suggestion will be recommended during the rewrite/update of the overall Zoning Ordinance.

Topic 3: Accessory Uses in Residential (R) Districts

Question/Comment Number One:

Can community gardens be considered an accessory use?

Answer Number One:

Currently, a community garden is considered an accessory use and allowed in Residential Districts.

Question/Comment Number Two:

Would the amenity area be for public or private use since the Ordinance makes a distinction between Residential Districts and Residential Subdivisions?

Answer Number Two:

The proposed language states that an amenity area is:

A "Permanent open space, or, structures that are customarily used for the joint enjoyment of the subdivision's residents such as swimming pools, tennis courts, clubhouses, and similar facilities; and (3) is permanently maintained by the collective owners."

This provision is intended to require that these areas serve residents of the development, like subdivisions, and are not larger public facilities.

Topic 6: Independent Driveways

Question/Comment Number One:

Can neighborhoods choose to delete driveway requirements instead of making it a blanket deletion across the city?

Answer Number One:

The requirement currently applies citywide, so the proposed change must also apply citywide. However, removing this requirement would not supersede on-site parking requirements. As a result, districts that require parking could still see independent driveways with new construction, but they would not have to provide an independent driveway. This provision will simply allow new lots to be created that use common alleys (existing or new) or shared driveways. Nothing would require a homeowner to provide access rights to an adjacent property. Further, this would allow a development pattern and site design that would be more compatible with many of the city's pre-World War II neighborhoods and reduce the number of driveway's and curb cuts interrupting the public sidewalks all over the City.

Question/Comment Number Two:

How will the city ensure if a new infill lot, developed without a driveway, not adversely affect off-street parking in front of neighbors lots and possibly block driveways?

Answer Number Two:

Removing the independent driveway requirement will not supersede the City's on-site parking requirements. As a result, Districts that require parking will likely continue to see independent driveways with new construction. Section 16-28.014 of the Off-Street Parking requirements of the City states that "an off-street parking space shall consist of a space adequate for parking an automobile of standard dimensions, with room for opening doors and entering or leaving on both sides and with safe and convenient access to public street or alley. Except in the case of single-family or two-family detached or semidetached residences, such space shall be provided with maneuvering room sufficient for convenient parking or unparking without maneuvering on any public street, alley or sidewalk. Spaces shall be so arranged that any automobile may be moved without moving another."

Question/Comment Number Three:

If independent driveways are eliminated, would it be assumed that the owner will not have an auto?

Answer Number Three:

This provision will simply allow lots to be created that use common alleys (existing or new) or shared driveways. An assumption will not be made that an owner will not have an automobile.

Question/Comment Number Four:

This greatly concerns me. There is already pressure by non-neighborly neighbors to re-purpose currently rarely used alleys into their own drive-way with new garages or carports. This affects neighbors who have bedrooms next to these alleys. There should be a regulation that new car pads, carports or garages cannot be created off of an existing alley, unless all neighbors agree via a variance and that existing use of existing alleys cannot be arbitrarily expanded. If Topic 6 goes through, it would create a lot of pressure on existing alleys.

Answer Number Four:

According to Section 138-5(a) of the City code, the city is not and shall not be responsible for the maintenance of "alleys," with the exception of three alleys (sometimes referred to as "public alleys") which have been historically maintained by the city. These three alleys are located in the central business district, connect major thoroughfares, are paved, and serve general transportation and public purpose. The city has no interest in, and shall not be responsible for any other alley within the city limits. Public service vehicles such as garbage trucks, fire safety vehicles, or police vehicles may make use of alleys in the provision of their service. However, none of these or other historic or present uses shall constitute public ownership of, interest in, or

responsibility for alleys. Since the City does not regulate alleys. This is a civil matter between adjacent homeowners.

Topic 7: Multi-Family / Residential General (MR/RG) Single and Two-Family Minimum Lot Sizes

Question/Comment Number One:

I believe that can the city can accomplish this fix by rezoning to a property to a Planned Development-Housing or Planned Development Mixed-Use (PD-H/PD-MU), OR the city can create a new zoning altogether. This quick-fix proposal would have a severe negative impact on older neighborhoods that are attempting to preserve the appeal of traditional streetscapes and setbacks.

Answer Number One:

The proposed change is not increasing density, changing streetscapes, or changing setbacks. It is just removing a provision in the code that forces applicants to build townhouses instead of small, detached houses.

Currently, both Multi-Family (MR) and Residential General (RG) districts allow townhouses ("zero lot line") to have small lots and require detached houses to have larger lots. However, many people prefer the sense of individuality that detached houses provide, so builders in MR and RG districts must build houses that look like detached houses but are technically attached townhouses. Refer to Exhibit I. The proposed change would eliminate the requirement for this attachment.

Exhibit 1: An Example of a detached townhome

Question/Comment Number Two:

There is a trend and one specific project planned for Boulevard just north of Auburn to have townhouses where the first floor is used for a garage. Then, the wall facing the sidewalk may only be a wall, with stairs to the floor above the garage, without any wall openings, windows or doors. I think this creates an unsafe and unattractive pedestrian experience. I think that a new building/townhouse, etc. next to a sidewalk should be required to have a minimum of two openings e.g. one window and one door, or two windows or two doors. A latticed (or similar) opening (such as from a garage) may be used instead of a window.

Answer Number Two:

This change could reduce occurrences of this by allowing windows and doors along sides of buildings. Today, developers seeking to fully utilize the lot cannot provide windows on the sides without a variance. This change would allow windows as a matter of right.

Topic 8: Mixed Residential Commercial (MRC) Building Placement

Question/Comment Number One:

The proposal does not provide minimum setback. A reasonable setback needs to be proposed and a zero setback is unacceptable.

Answer Number One:

There is already a zero-foot setback in the districts for non-residential uses and residential uses with no side windows. This is simply removing its applicability to residential uses with side windows. Building code will continue to apply required setbacks for safety.

Question/Comment Number Two:

Mixed Residential Commercial designations are eliminating very important setbacks for the privacy of single-family homes, as well as, important tree planting and wildlife corridors.

Answer Number Two:

Refer to Answer Number One above. Also, the City's Transitional Yard requirement is still in place which requires wider yards and buffers when adjacent to single-family zoning districts.

Topic 9: Unified Development Plans

Question/Comment Number One:

Can residents have an opportunity to review Unified Development Plans for Special Administrative Permits (SAPs) during the Neighborhood Planning Unit (NPUs) community meetings?

Answer Number One:

Currently, many SAPs do not go to the NPU for review and comment. Those that do, such as within the BeltLine Overlay, would continue to be shared with the NPUs.

Topic 11: Special Use Permit (SUP) Transfers

Question/Comment Number One:

The Special Use Permit (SUP) transfers should be revised to keep the current process but add Neighborhood Planning Units (NPUs) input between review by the Zoning Administrator and the recommendation by Zoning Committee?

Answer Number One:

The proposed change only applies to transfers of SUP's that do not go thru the NPU process now. Whether the NPU system should be involved is a policy question. We believe that if the applicant of the transfer of ownership is aware of and will comply with the existing SUP conditions, then there is no compelling reason for further public input. This change will streamline the process. As a part of the transfer process, we request that a zoning enforcement officer conduct an inspection of the site.

Question/Comment Number Two:

Special Use Permits should not be transferred by the Zoning Administrator. The new owner should have to go to the Neighborhood Planning Unit for a new Special Use Permit. e.g. Group Homes.

Answer Number Two:

Refer to Answer Number One.

Topic 12: Sidewalk Requirements

Question/Comment Number One:

In existing and new residential construction/renovation, who is responsible for fixing/updating existing sidewalks. Homeowner? City?

Answer Number One:

According to Section 138-103 of the City code as it relates to the inspection and repair of sidewalks, the Commissioner of Public Works shall inspect the sidewalks along public right-of-way, to maintain the sidewalks thereon in a safe and suitable condition for public use and travel, to condemn promptly pavements on such sidewalks that are unsafe or unsuitable for public travel, and to cause repairs to be made in accordance with city law and to charge the cost of the repair to the abutting property; provided however that where funding is identified, applicable and available for implementation of repairs by the city, such repairs shall be undertaken by the city upon a prioritized basis until the funding is exhausted. The absence of city funding shall not excuse the abutting property owner from the requirements of this section.

Question/Comment Number Two:

New infill houses should only be required to add sidewalks if sidewalks already exist, or if there is an abutting sidewalk. For new large developments, sidewalks should be installed 300 feet beyond the edge of the development OR until it connects to an existing sidewalk, whatever is shorter. The City of Atlanta should add sidewalks for R-4 and R-5.

Answer Number Two:

This is a policy decision. The ability to allow required sidewalks to be "transferred" to nearby streets would address this. Also, this "Quick Fix" would require the installation of sidewalks with new single-family developments in the R-4 and R-5 zoning districts except when historic, landmark, or overlay standards apply. For example, like the West End Historic District regulations and almost all other historic preservation regulations, when there is a conflict between the historic district regulations and the general zoning regulations, the historic district regulations take precedent. Please note, however, that if the historic district regulations do not address a topic, then the underlying zoning would be applied. For instance, if the historic district regulations do not have a requirement for lot coverage or side yard setbacks, the underlying zoning requirements for lot coverage and side yard setbacks would apply.

So, if the final version of the "Quick Fixes" are adopted and integrated into general zoning regulations, then they would have the same relationship as all the other general zoning regulations do to the historic district regulations. This same principle would apply to changes in definitions or measurement techniques that are part of the "Quick Fixes." Again, if the historic district regulations have a specific definition or measuring technique, it would take precedence. If not, the general zoning definition or measuring technique (as amended by "Quick Fixes") would apply.

Question/Comment Number Three:

Should the Director of the Office of Zoning & Development in the Department of City Planning have the right to adjust the sidewalk requirements? Would this right create too many sidewalks that may be waived?

Answer Number Three:

This is a policy decision. However, there is a criterion that the Director would use as a guide to determine whether a required sidewalk within a certain district may be adjusted. These criteria are as follows:

- If existing sidewalks are not in need of repair
- If trees existing in the proposed sidewalk zone contain trees having a diameter at breast height (DBH) of 6 inches or more
- If topographic conditions would result in a sidewalk 12-inches above or below the finished curb
- If topographic conditions would prevent driveway access upon completion of the sidewalk
- If physical conditions exist such as existing structures, existing utility devices, or rock outcroppings in the sidewalk area
- If sidewalks on the block are of a different size
- If there are no sidewalks on the block
- If historic district or SPI district regulations conflict

Topic 13: Storage Pods in Residential-Districts

Question/Comment Number One:

The proposal should add 14 days maximum in any 365-day period if visible from streets. I think that no pod should sit on the front lawn of a residential structure. Pods should only be placed along the side or rear yards of a residential structure.

Answer Number One:

There is currently no restriction on time limitations or placement. The proposed language provides more controls than exist today.

Question/Comment Number Two:

There should be a standard form that people could place on storage pods indicating the timeframe that pods are allowed since many people (neighbors, etc.) might not be aware of the allowed time frame.

Answer Number Two:

Refer to Answer Number One.

Question/Comment Number Three:

Can the time limit for storage pods in residential districts be extended from a 60-day limit to a 90-day limit?

Answer Number Three:

Yes. After further review, we have found that the time limits of storage pods should be similar to the maximum time limit to host special events, which is 90-days. Therefore, we are recommending that the proposed "Quick Fix" Phase I legislation be amended to reflect the extension of time for storage pods.

Question/Comment Number Four:

Can the time limit and placement of storage pods be extended to non-residential zoning districts?

Answer Number Four:

Non-residential districts have more permissive regulations regarding the placement of accessory uses. Any changes to those districts would require a policy decision.