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SINGLE-FAMILY ZONING: CAN HISTORY BE REVERSED?

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Single-family zoning has a target on its back. Long condemned for creating suburban sprawl and excluding Black Americans, immigrants, and low-income people from residential districts, it has now come under attack for limiting the supply of affordable housing. Declaring that "the housing affordability crisis is undermining the California Dream for families across the state," California Governor Gavin Newsom recently signed legislation that eliminated single-family zones (https://www.gov.ca.gov/2021/09/16/governor-newsom-signs-historic-legislation-to-boost-californias-housing-supply-and-fight-the-housing-crisis/) by allowing up to four units on existing single-family residential lots. The city of Minneapolis (https://www.nytimes.com/2018/12/13/us/minneapolis-single-family-zoning.html) and the state of Oregon (https://friends.org/news/2019/8/hb-2001-signed-law) have already passed similar measures, and planners across the country hope to do the same elsewhere. The history of zoning in the United States, however, suggests that it will take more than simply removing single-family zoning to increase the supply of housing enough to bring prices down.

In nineteenth-century America, before cities instituted zoning, builders of homes were lightly regulated. As urban populations grew and diversified in income, subdividers and builders carved up tracts into larger and smaller lots depending on the value of the land and the wealth of the buyers they hope to attract. Single-family houses on their own lots were – and still are – the most preferred type of home. For working-class households, such homes could be modest – a workers' cottage, shotgun house, or simple frame house located on an alley or behind another house. In more densely settled neighborhoods, city residents made their homes in boardinghouses, or, as tenants or owners, in duplexes, three-deckers, and other small multifamily buildings, which were frequently designed to resemble nearby single-family houses. Where demand was high enough, developers would build apartment buildings, ranging from luxury apartments to working-class tenements, such as those inhabited by immigrants on New York City's crowded Lower East Side.

In the early twentieth century, Progressive reformers imported the practice of land use zoning from Germany in order to provide working-class families with low-density housing on the urban outskirts. Almost immediately, however, upper-income white property owners, developers, and local officials seized on it as a way to protect subdivisions from factories and people of a different race, ethnicity, or class. Although the 1917 *Buchanan v. Warley* Supreme Court decision (https://tile.loc.gov/storage-services/service/ll/usrep/usrep245/usrep245060/usrep245060.pdf) prohibited zoning by race, in 1926 the Court gave its blessing to zoning that segregated land uses and building types. In *Euclid v. Ambler*, the Court endorsed single-family zones (https://tile.loc.gov/storage-services/service/ll/usrep/usrep272/usrep272365/usrep272365.pdf) on the grounds that they excluded "parasite" apartment buildings that blighted neighborhoods and lowered property values.

Single-family zoning had its greatest impact in the suburban boom that took place in the decades after World War II. Fueled by generous loans guaranteed by the Federal Housing Administration (FHA) and the Veterans Administration (VA), the residential development of unbuilt upon areas – "greenfields," such as old farms – generally took the form of single-family houses on individual lots, the overwhelming choice of Americans moving to the suburbs. Developers catered to this taste, carefully calibrating the size of lots and houses at price points for different income groups. With the encouragement and approval of the FHA, developers such as William Levitt explicitly barred Black Americans and, in some cases, Jews from buying into their subdivisions.

This and other inequitable practices, such as redlining, fostered long-lasting patterns of racial segregation in the suburbs that persisted even after 1968 when the federal Fair Housing Act and the Supreme Court decision in *Jones v. Mayer* prohibited discrimination in real estate transactions (https://tile.loc.gov/storage-services/service/ll/usrep/usrep392/usrep392409/usrep392409.pdf). Town officials around the country codified the stratified development patterns by adopting single-family zoning to preserve them.

No matter what size home and yard they possessed, suburbanites felt they had a stake in maintaining the social or physical characteristics of their neighborhoods. To ensure that new development would serve only high-income brackets, suburbs commonly imposed large minimum house-lot sizes, often up to three acres but sometimes upwards of ten. Over time, many came to see any new development as a threat to their quality of life.

Local officials responded by making it more difficult for home builders to obtain construction permits. From the 1970s onwards, they implemented measures that impeded or blocked new construction in the name of saving nature, a process that the late Bernard Frieden, a longtime professor of urban planning at MIT and former director of the Joint Center for Urban (now Housing) Studies described as "the environmental protection hustle (https://mitpress.mit.edu/books/environmental-protection-hustle)." Under the guise of preventing sprawl, suburban cities and towns began imposing outright limits and moratoria on new construction to slow or discourage development. In addition, building department officials, civil engineers, and fire marshals each imposed increasingly demanding requirements on new residential development.

In the twenty-first century, municipalities in many large metropolitan areas continued to impose non-zoning anti-growth measures (https://www.nber.org/papers/w26573). These included not only environmental and building codes as before, but also requirements for project approval from two or more government entities, exaction fees for developers, and formal design review. Such restrictions constrained development and thus contributed to the rise in housing prices.

Meanwhile, a movement to increase density and remove barriers to housing development – sometimes called YIMBY (Yes, In My Backyard) – has brought about the recent single-family zoning bans as well as new rules to allow accessory dwelling units in single-family houses in states and localities (https://accessorydwellings.org/) (notably in Oregon, California, and Connecticut).

But the efforts to get rid of single-family districts have not addressed the plethora of obstacles to residential development on a scale that would affect housing prices. Minneapolis, Emily Hamilton has noted, failed to increase the allowable height or size of new buildings (https://www.bloomberg.com/news/articles/2020-07-29/to-add-housing-zoning-code-reform-is-just-a-start), in effect precluding large multifamily structures. In Oregon, zoning reform allows municipalities to require large lot sizes. California's new law allows local jurisdictions to impose owner occupancy restrictions on subdivided lots (https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9), leaves local zoning and design requirements in place, and exempts lands that have been deemed prime farmland, wetlands, or part of a conservation plan.

The new zoning rules usually allow building up to four units on a previously single-family lot, a small number that will likely mean that most new development will be done one lot at a time by homeowners and small-scale builders (https://www.opb.org/news/article/oregon-single-family-zoning-law-effect-developers/) – a slow process. Beyond the issue of volume, it remains to be seen whether the units inserted onto existing lots will satisfy the persistent desire of Americans, especially millennials starting families, for a free-standing house with a yard.

Merely eliminating single-family zoning, history suggests, is unlikely to increase housing stock significantly. To unleash residential development will require peeling back layers of regulations that have accrued over the decades. That could mean reducing minimum lot sizes, relaxing overly stringent construction and site requirements, easing design reviews, and rolling back some environmental controls, including certain provisions for wetlands and open space. The political efforts necessary to reverse such entrenched practices, however, will be formidable, so the recent laws against single-family zoning are but the first steps in a long march.

Image source: University of Southern California Libraries & California Historical Society.