

# Racist Roots of the Affordability Crisis and Eliminating Single-Family Zoning

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On July 15, a mob of 3,000 surrounded the home at 4600 Columbus Avenue in Minneapolis, hurling insults, rocks, and hate at its occupants. The mob of white residents was seething over the new owner's refusal to leave, and stormed the house, with shouts of "lynch him!" echoing down the street. Arthur Lee, a postal worker, WWI veteran, and a Black man, had had the audacity to purchase a home in a "white section" of Minneapolis in 1931. Lee and his family defied the mob, refusing the sell or leave the neighborhood. They had the support of the local chapter of the N.A.A.C.P., which pressured city police to protect the Lees, and a cadre of Arthur Lee's fellow WWI vets and postal workers standing guard around the house.

Of course, the case of the Lees is not an isolated incident. Racial discrimination in housing is as American as apple pie, and has been woven into the nation's housing policy from Reconstruction to the present. Far from accidental, residential segregation has been perpetuated through policy choices, some as obvious and infamous as redlining, and others more subtle like credit checks and subprime mortgages. Three policies that directly defined where people of different races could live were racial covenants, redlining, and zoning ordinances. These three policies worked in concert to segregate housing, and their impacts can still be felt today. In this paper I will analyze the impacts of these three policies on residential segregation and the housing affordability crisis today, and show how all three policies are tied together through anal-

ysis of geographical mapping. Of these policies, single-family zoning has persisted through the second half of the 20th century and into the modern day. More recently it has become a target for reformers in some state and local governments hoping to create change in segregation and affordability.

Residential segregation is tied to the affordability crisis, which has gained new prominence and urgency for policy makers since the 2008 recession. As policy makers search for answers to the crisis, some governments have set their eye on reforming single-family zoning. This type of zoning has encouraged suburban sprawl and set aside vast swaths of land that only allow detached single-family homes on large lots, and effectively outlaw mid-density housing known as the "missing middle." It is now being recognized as a barrier to affordable development, but its roots and its legacy are in racial discrimination and residential segregation. The Lees' hometown of Minneapolis was the first major city in the U.S. to dismantle single-family zoning, followed by Oregon, and then California. This policy innovation is still in its infancy and too early to judge, but it offers a promising practice for other governments hoping to reduce segregation and improve affordability

## **Residential Segregation and Impacts on the Modern Affordability Crisis**

Residential segregation has been created, refined, and reified through decades of housing policy. Redlining and racial covenants burst on the scene in the early 1900s, and were

used by white property owners to maintain white-only neighborhoods until they were struck down by the courts and Congress in the 1950s and 1960s after many decades of harming communities of color, and shaping residential segregation. The white property owners and local politicians behind single-family zoning took a more subtle approach to exclusion, and has continued to enjoy support in popular opinion to the present day. These policies did not operate alone, and residential segregation was promoted from myriad angles, including through policies that shaped public housing, urban renewal, discrimination against voucher holders, and racial steering, among others.

The U.S. is still highly segregated by race, and this continues to negatively impact communities of color today. In fact, segregation has increased in many areas. According to a multi-part study on residential segregation by Menendian, Gambhir and Gales (2021) at the Othering and Belonging Institute of University of California Berkeley, between 1990 and 2019, 81% of large cities with a population over 200,000 saw residential segregation increase. Residential segregation refers to residential areas that have low levels of diversity, and high concentrations of one race or ethnic group. It is a "lynchpin" holding structural racism in place (Menendian, Gambhir, and Gales 2021, 4). Segregation can be traced back to slavery and has been reinforced throughout the 20th and into the 21st century. White segregationists lost the ability to use more overtly racist tools when the Civil Rights Movement won a tremendous legal

victory in the Fair Housing Act of 1968, after a long battle for protections against racial discrimination. It outlawed many forms of overt discrimination, including making race-based decisions in rentals and sales, terms and conditions, and advertising (Schwartz 2021). Though this was an incredibly important step, it lacked teeth in enforcement: victims of discrimination were responsible for finding a way to prove they were facing discrimination, often through hiring fair housing testers who would pose as buyers or renters and look for disparate treatment from landlords or realtors of white and non-white testers. Victims of discrimination were allowed only 180 days to file a complaint (2021, 316). These barriers to enforcement allowed much discrimination by landlords and realtors to pass unchallenged, and opened the door for other forms. Discrimination was forced to move underground in the post-Fair Housing Act era, and white people hoping to maintain segregation needed to adopt less overt tactics. One of those tactics was single-family zoning, which proliferated after the passage of the Fair Housing Act, (Archer 2021).

Residential segregation is particularly damaging because isolates communities of color away from resources. In fact, it can be considered “the single most important condition that continues to have adverse effects on the socioeconomic status and the health of African Americans is residential segregation,” according to Leland Ware (2021) who examined the lasting impact of the *Plessy v. Ferguson* decision. It is associated with poorer health outcomes, lower wealth accumulation, and lower pay for people of color in highly segregated areas compared with more integrated areas (Menendian, Gambhir, and Gales 2021). Impacts can follow children into adulthood: one study found Black

children in more segregated neighborhoods earned \$1000 less annually compared to peers raised in more integrated settings. Residential segregation impacts people’s access to services and basic needs, such including health care, child care, parks, and healthy food (Menendian, Gambhir, and Gales 2021). Segregated communities of color are “more likely to have hazardous waste facilities” nearby (2021, 12), and even be crushed all together by highway construction (Davis 1965, and Ware 2021). The COVID-19 pandemic disproportionately impacted communities of color, due in part to residential segregation. People of color are more likely to live in crowded homes and farther from health care services and their workplace. This created the conditions for COVID-19 to spread through households, and infect people as they traveled longer distances to work (Williams 2020).

White property owners used racial covenants as an explicit bid to keep neighborhoods segregated, and reserve white areas for white homeowners. The covenants began in the 1910s, and became common practice by the 1930s (Ehrman-Solberg, 2018). White property owners attached covenants to the deed of the house and restricted owners, including future owners, from selling to people of specific races. For example, a racial covenant from Oregon in 1913 states: “nor shall the same or any part thereof be in any manner used or occupied by Chinese, Japanese or negroes, except that persons of said races may be employed as servants by residents” (Hughes 2019). In 1948, in *Shelley v. Kraemer* the Supreme Court ruled that racial covenants were “unenforceable,” leaving the covenants still technically legal: residents and sellers were still allowed to abide by the covenants if they so chose (The Fair Housing Center of Greater Boston, n.d.). In fact, they were not declared illegal until the

Fair Housing Act of 1968. The impact of racial covenants can still be felt today. In Minneapolis, areas with covenants historically are still the whitest (and wealthiest) parts of the city (Ehrman-Solberg, 2018).

Redlining, like racial covenants, had a huge impact on where Black and brown people could live in the first half of the 20th century, with impacts still lingering to this day. Redlining has been described as “among the most impactful practices that created these stark differences in neighborhood resource distribution and concentrated disadvantage was redlining: the practice of denying fair access to credit, particularly mortgages, based on the race of the residents of a neighborhood” (The Digital Scholarship Lab and the National Community Reinvestment Coalition, n.d.). The Federal Housing Administration (FHA) underwriting manual from the 1930s stated “the valuator should investigate areas surrounding the location to determine whether or not incompatible racial and ethnic groups are present” (quoted in Schwartz 2021, 63-4). The FHA gave preferential treatment for mortgages to buy single-family homes over multi-family homes, which spurred growth in the suburbs where land was more readily available, and had the effect of starving urban areas of funds (Schwartz 2021). Redlining shows the direct link between residential segregation and housing affordability. It specifically designated areas that were non-white or at-risk of becoming non-white as areas that were off-limits to lenders and borrowers. In other words, it shut Black and brown households out of the mortgage market and effectively denied them the ability to purchase homes.

Black residents were restricted by white property owners and policy makers to primarily Black or minority neighborhoods through the policies of redlining

1910	Racial covenants began cropping up
1916	First zoning law in the U.S. instituted in Berkeley to prevent Black dance hall from coming to white neighborhood
1924	First zoning law in Oregon, instituted shortly after officials associated with the KKK were elected to public office
1931	Lee family moves into predominantly white neighborhood in Minneapolis and is be-set by a white mob of thousands
1948	Supreme Court rules that racial covenants are “unenforceable” but does not make them illegal
1956	Federal Aid Highway Act passed, which would decimate thriving Black communities, including the Rondo neighborhood in the Saint Paul, Minnesota
1968	Fair Housing Act outlaws overt forms of housing discrimination
2018	Minneapolis City Council adopts zoning reform to abolish single-family zoning in the city, making a quadplex the new minimum zoning allowed
2019	Residential segregation in large cities is worse than it was nearly 20 years prior
2019	Oregon becomes the first state to limit single-family zoning through House Bill 2001
2020	COVID-19 pandemic sweeps the world and takes a horrible and disproportionate toll on communities of color in the U.S. George Floyd, a Black man, is murdered by police in Minneapolis and Black Lives Matter protests ignite.
2021	California passes law to eliminate single-family zoning, creating a new minimum of two units, and allowing lots to be subdivided
2022	Cities across California come up with new and creative ways to try and circumvent the new zoning requirement, including shrubbery requirements, and attempting to designate an entire city as mountain lion habitat.

**Figure 1.** Timeline of major events in the intertwined histories of racial covenants, redlining, exclusionary zoning, and the push to end single-family zoning.

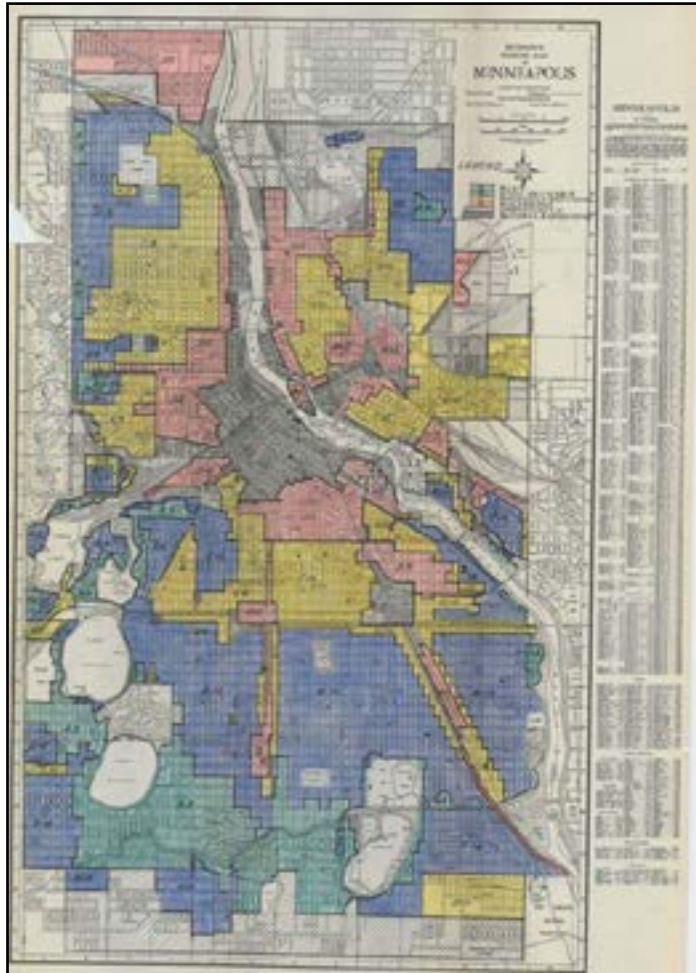
and racial covenants, and then these neighborhoods were put on the chopping block in the 1950s and 1960s to make way for the nation’s freeways. The Federal Highway Act passed in 1956, and paved the way for “the roads [that] displaced families from their homes, sliced communities in half, and led to abandonment and decay in urban communities” (Ware 2021, 102). Black neighborhoods in the 1960s and 1970s pushed back on this desecration of their homes, and in Washington D.C. the protest chant “no white men’s roads through Black men’s homes” (Archer, 2021) could be heard in the streets. In Saint Paul, just across the Mississippi from Minneapolis where the Lee family faced down an angry racist mob 30 years prior, the vibrant Rondo neighborhood, an enclave of the Black community, was destroyed in the 1960s to make way for Highway 94 (Horowitz et al 2021). Black communities that had carved out space for themselves despite the oppressive forces of redlining, racial covenants, and zoning, were treated as disposable by local officials who determined the paths the freeways would take (Moore, Montojo, and Mauri, 2019). Ultimately, some of the highway projects were stopped or rerouted, but not out of concern for Black residents. Environmental activists who challenged the freeway projects on the basis of pro-

tecting parks and green space found a more receptive audience in Congress than Black residents trying to preserve and protect Black communities. The timeline below (figure 1) shows a selection of the major events in the history of racial covenants, redlining, and exclusionary zoning.

Zoning laws were another way that white property owners and local governments effectively excluded people of color from specific parts of a town or city. Zoning is “a law adopted by a local government that separates the land in a particular locale into sections, or zones, with different rules governing the activities on that land” (Pental et al as cited in Hirt 2014, 32). The birth of single-family zoning can be traced back to racial segregation. Though zoning laws that explicitly limited residents by race were deemed illegal by the Supreme Court in 1917, many local governments found “workarounds ... and continued to intentionally segregate using other zoning tactics” (Hughes 2019). The first zoning law in the country was created in Berkeley, California in 1916. It was originated by Duncan McDuffie, a developer, who inserted racial covenants into all his developments. McDuffie sought to block a Black dance-hall from entering the Elmwood neighborhood near his development, and shore

up property values. He succeeded in both goals, and thus single-family zoning was born. The understanding that zoning is an exclusionary tactic is not new. In 1982, the *Report on the President's Commission on Housing*, revealed that certain zoning laws were serving "exclusionary motives" (President's Report 1982, 199). Eliminating single-family zoning has become one part of a multi-pronged approach to fighting structural racism (Brooks, Parker, Lin, and Spievack, n.d.).

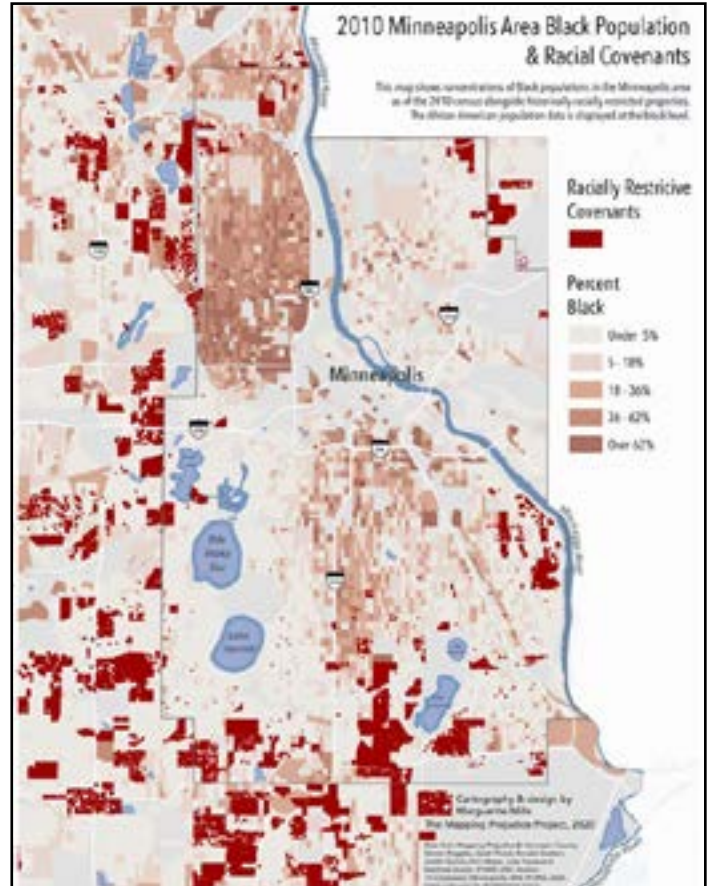
Zoning laws have enjoyed relatively strong



**Figure 2.** Map of redlining in Minneapolis. The color scale runs from green, "best," to red, "hazardous." Source: Mapping Inequality: Redlining in New Deal America, University of Richmond's Digital Scholarship Lab.

protection from the courts. In 1926, in *Village of Euclid v. Ambler Realty Co.* the Supreme Court upheld the constitutionality of single-family zoning deeming it appropriate due to public benefit (Ziegler 1983). The President's Commission on Housing in 1982 noted that subsequent courts had a "near-abdication of any meaningful judicial review" (201) based on this decision. In other words, zoning laws were left largely unchecked by the courts. Single-family zoning was upheld again in 1980 in *Village of Belle Terre v. Boraas* (Ziegler 1983). There were some effective challenges, however. Mt. Laurel, a town in New Jersey, had adopted zoning "that so restricted minimum lot

area, building size, lot frontage and types of housing available to families having school age children that it made housing for people with low and moderate incomes virtually unavailable" (Young 1977). The New Jersey Supreme Court ruled in *S. Burlington County NAACP v. Mt. Laurel* (1975), "that defendant township had unlawfully excluded low and moderate income families from the municipality by means of its zoning ordinance" (LexisNexis, n.d.). It was therefore invalid. This decision was used in future cases to strike



**Figure 3.** Minneapolis Area Black Population and Racially Restrictive Covenants. Source: Mapping Prejudice Project, University of Minnesota.

down exclusionary zoning in some cases, but was also watered down, or ignored in others (Young, 1977).

Racial covenants, redlining, and single-family zoning all support the same structure of racial segregation. Maps of Minneapolis provide a stark visual representation of this fact, in which each map mirrors the other. The modern-day Black population of Minneapolis continues to reside in areas that were historically redlined (Figure 1) or did not have racial covenants (Figure 2). These areas also tend to overlap with less restrictive zoning. The 2010 census showed that Minneapolis has largest gap between Black and white homeownership rates in the US (Ehrman-Solberg, 2018). The Lee family's house at 4600 Columbus Avenue, lies just outside the redlined strip between Lake Harriet and Lake Nokomis (this redlined strip also

marks the future site of Highway 35). A map of Minneapolis zoning reveals the same pattern: areas that were historically zoned for single-family homes (R1 zoning code) correspond with lower populations of Black residents. An interactive map of Minneapolis zoning can be found online at the Minneapolis Community Planning and Economic Development website.

Single-family zoning has contributed to the affordability crisis battering U.S. households today. This crisis has become so widespread that it is impacting households of all shapes, sizes, and races, but unsurprisingly, it continues to hammer households of color worst of all. Housing affordability is typically considered spending less than 30% of income on housing. The U.S. has very low population density in urban and suburban settings compared to other countries (Hirt 2014). The U.S. is unique in that many homes are large single-family, detached dwellings, with yards. In fact, “the average size of a new dwelling has more than doubled since the 1950s, from about 1,000 to 2,300 square feet, even though the average household size has shrunk” (Wilson and Boehland as cited in Hirt 2014, 22). As a recent article in the *New York Times* proclaimed, “older, white and wealthy home buyers are pushing others out of the market” (Kaysen 2022).

Single-family zoning restricts the supply of housing, and therefore affordability, by limiting denser forms of housing. This has created what is now known as “the missing middle”: that type of middle density housing that falls somewhere between a detached single-family home, and a large apartment building. Suburban zoning in particular can require large vast swaths land which increases the cost of supply. For example, the State of Connecticut, building is so restricted that 91% of land requires at least one acre in order

to build (Joint Center for Housing Studies 2022, 15). Economic conditions, like the Great Recession in 2008, severely impact housing being built, and what type. Building has recovered in 2021, but most new construction is concentrated in higher-cost “top of the market” supply (Joint Center for Housing Studies 2022, 5). Limited availability or high cost of supplies also limit construction, an issue which has been causing builders a lot of pain since the onset of the pandemic (2022, 6).

This missing middle is a terrible detriment to lower-income and minority households’ ability to accumulate wealth because it makes it even more difficult for those who have historically been shut out of the housing market to get their foot in the door. Homeownership is one of the primary vehicles of wealth accumulation in the U.S., and residential segregation and the entwined affordability crisis have pushed this even further out of reach for many in the U.S. Homeowners are able to accumulate wealth at a much greater rate than renters across income brackets, and homeowners also benefit from being able to leverage their homes as an asset (Schwartz 2021, 341-342). This knowledge helps contextualize the magnitude of harm that racist housing policies have had on communities of color: racial covenants barred non-whites from purchasing specific homes, redlining made it nearly impossible to provide mortgages for homes in primarily Black or minority neighborhoods, and single-family zoning artificially inflated the cost of housing so that only those who already had the privilege of wealth could benefit.

### **Policy Innovation: Eliminating Single-Family Zoning**

Zoning has increasingly become recognized by activists and local governments alike as an unneces-

sary and artificial barrier to more affordable and integrated development. It is yet another tool to shore up residential segregation, and “protect” neighborhoods from “undesirables.” Unlike racial covenants, however, it has succeeded in adopting an innocuous reputation, and still enjoys strong support to this day. Governments and activists have tried different ideas over the years to tackle residential segregation, and counteract racism in the housing market. Some innovations have explicitly focused on creating opportunity for racial minorities, but more recent attempts have made low-income households the target of policies. This has been more politically acceptable since affirmative action-style policies that explicitly address race have been subjected to backlash. One such policy is inclusionary zoning. Inclusionary zoning is the practice of requiring a certain amount of market rate development to be set aside for affordable housing. Requirements vary depending on the jurisdiction. Various state and local governments have adopted inclusionary zoning, attracted by its ability to promote affordable housing with little to no public funds. Studies of inclusionary zoning show that it has produced between 129,000 and 150,000 affordable housing units nationwide as of 2017, far below what advocates had hoped for (Mallach and Calavita in Schwartz 2021, 257). Inclusionary zoning often has a clause for developers to pay an “in lieu” fee, which hypothetically is used to create additional affordable housing. Unfortunately, performance of this aspect of the program is also mixed: many jurisdictions lack the infrastructure to utilize the funds raised to actually develop new affordable housing (Schwartz 2021, 256). Pamuk and Hill (2019) examine the effects of inclusionary zoning on residential segregation in their study of San Francisco between 1990 and 2010,

and find that while some promising data exist, inclusionary zoning is simply not sufficient for combating the entrenched segregation and discrimination in U.S. housing. Schwartz (2021) concurs, noting that although certain localities, such as Montgomery, saw greater integration through their inclusionary zoning policies, overall the policies did not have a meaningful impact on reversing residential segregation.

Zoning reform is now being tackled from another angle: up-zoning areas that were previously zoned only for single-family zoning. Upzoning refers to the practice of increasing the allowed building density of an area that had previously been zoned for lower density. Single-family zoning has come under scrutiny due to the affordability crisis, but its roots have been racist from the beginning. Activists and local governments are now taking steps to remove this artificial barrier to affordable and integrated housing, and rediscovering its legacy of residential segregation. The City of Minneapolis led the charge in 2018, followed by the State of Oregon a year later, and the State of California two years after that.

In 2018, the Minneapolis City Council adopted a new comprehensive plan, which most notably did away with exclusive zoning for single-family housing. The new plan, the 2040 Plan, specified that the minimum zoned density would be 3 units on a parcel, up-zoning many parts of the city. The Minneapolis 2040 website states that the goal of the new zoning plan is to increase housing choice, “acknowledging the contribution of zoning to racially-restrictive housing practices of the first half of the 20th century, and the lasting effect those actions had on people of color and indigenous people.” It also addresses climate policy and the goal of “developing multifamily housing on transit routes, provid-

ing people the opportunity to live without a car, or with fewer cars in each household, helping to work toward the City’s greenhouse gas reduction goal.” The lowest density zoning in Minneapolis is “R1” which now aligns to the 3-unit per parcel minimum. Appendix C provides a map of current Minneapolis zoning, showing a variety of zones represented by colors, with yellow covering large swaths of the map and representing R1 zoning.

Oregon followed Minneapolis and became the first state to eliminate single-family zoning. The law, called Housing Choices, or House Bill 2001, sets requirements for cities to allow duplexes up to six-plexes depending on location and size of the city. The Oregon Department of Land Conservation and Development, which was tasked with the implementation of H.B. 2001, states that medium-sized cities must allow duplexes, and large cities and those in the Portland area must allow “duplexes, triplexes, quadplexes, cottage clusters, and townhouses in residential areas.” These requirements phased in on July 1, 2021 for medium sized cities, and July 1, 2022 for large cities and Portland-area cities. Many of these types of homes were previously allowed in Oregon, and can still be found in older parts of cities, until they were outlawed by a series of zoning laws, the first in 1924.

On September 16, 2021, California Governor Gavin Newsom signed Senate Bill 9 (S.B. 9) into law, which effectively up-zoned single-family zoning in the state. The bill allows up to 4 units to be built on land that was previously zoned for one unit, by allowing property owners to split a lot into two, and develop two units on each lot.

Even before SB 9 went into effect on January 1, 2022, the law was already the subject of protests by indignant city councilors at local

meeting meetings. Environmental laws protect sensitive habitats but can also be weaponized by savvy suburbanites to fight affordable housing. Rising raising interest rates, like those currently battering households in 2022, dampen demand. Conflicts arise between local government, which retains a great deal of control over local zoning, and state and federal government trying to encourage more affordable housing development (Joint Center for Housing Studies 2022, 6). Temple City in California enacted an emergency ordinance in December 2021 that, among other restrictions, would require any new tenants moving in as a result of lot-splits forsake personal cars, and plan to use only walking, public transit, or ride-share transportation (Tobias 2022). The Northern California City of Sonoma imposed a shrubbery requirement that properties must have 3 trees and 10 shrubs in order to be considered for duplex development (Tobias 2022). Opposition to the elimination of single-family zoning sometimes follows historic trends of white property owners attempting to maintain white neighborhoods, but this is not uniform across all localities. Temple City has a majority-minority population, with the white population making up only 21%. In contrast, the City of Sonoma is almost 90% white, and the median home price is \$825,000 according to the U.S. Census Bureau as of 2021.

### Assessment

The elimination of single-family zoning in Minneapolis, Oregon, and California is still a recent phenomenon, which makes it difficult to assess its impact on residential segregation and affordability, prompting academics, activists, and policy analysts to ask, will this end up being a promising practice, or a development dud? Early analyses offer some insight into this

question, and show that the impact on actual number of units is likely to be modest, but nonetheless important in the quest for greater affordability, and, given the racist roots of single-family zoning, an important moral victory.

Critics of eliminating single-family zoning have decried the one-size fits all approach. Some have argued that it will make low-income and minority neighborhoods more vulnerable to gentrification. Proponents of the change have cried foul, however, asking where these critics have been during other efforts to support low-income and minority housing (Tobias 2021). Others have worried that the demise of single-family zoning could ruin the neighborhood feel of their communities. Jake Wegmann (2020) disputes the common arguments against single-family zoning, and concludes that eliminating single-family zoning and investing in missing middle housing will support greater racial and income integration, and improve affordability for low- and middle-income households.

Early estimates in Minneapolis show that approximately 97 new units have been constructed as a result of the zoning change (Fox 2022). Construction of new housing was likely disrupted by the pandemic, as well as protests against the murder of George Floyd in Minneapolis in 2020.

In California, the elimination of single-family zoning has the potential to create more than 700,000 new homes, though actual construction is likely to be much lower. One provision of the California law that made it into the final revisions is the requirement that anyone subdividing a lot must plan to live there for at least one year after the division. This provision was added in order to guard against predatory or speculative developers and gentrification, but will likely have the effect of muting the im-

pacts of the law on new construction (Metcalf, Garcia, Carlton, and MacFarlane 2021).

### Conclusion

Ultimately it is too soon to judge for sure. Eliminating single-family zoning is likely to have some impact on segregation and affordability, but it is far from a silver bullet. However, as we have seen through tracing the history of housing policy, the mechanisms to support the current system of haves and have-nots, and residential segregation are myriad, and the solutions will need to be so too. It is time that single-family zoning go the way of racial covenants, and redlining before it. There is no room in this housing market for unnecessary and racist barriers. As Mogush and Worthington (2020) state in their recent take on the policy debate surrounding single-family zoning: “reversing institutional racism and increasing access and agency for BIPOC residents in our communities requires people of all professions to examine how the systems they oversee contribute to inequities, even if the immediate effects of a single reform are not apparent.”

Fifteen years after the first single-family zoning law, 17 years before racial covenants were deemed unenforceable, and 91 years before the City of Minneapolis upzoned all single-family zoned areas, Arthur and Edith Lee defied the white mob hellbent on terrorizing and displacing them. The Lees stood their ground for two years before they decided to move from their Minneapolis neighborhood. Arthur Lee told the Minneapolis Tribune “I came out here to make this house my home ... I have a right to establish a home” (Nelson 2017).

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