

Putting the “Why” in YIMBY

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In response to the vexing U.S. housing crisis, over 100 cities have deregulated their zoning laws to allow more dwelling units. Many are promoting housing availability by allowing accessory dwelling units and small, multi-family “middle housing” in areas where only single-family detached houses were previously permitted. In many cases, the pro-housing “Yes In My Backyard,” or YIMBY, movement supported these interventions. This pro-growth trend counters longstanding antigrowth tendencies in many communities.

Understanding why local electorates and officials accept more housing is integral to future reform efforts’ success in ameliorating the housing crisis. Existing political economy scholarship has documented and evaluated the antigrowth biases of localities, yet it has not inquired why some communities might instead accept new housing. This Article endeavors to do so, situating the YIMBY movement and its attendant reforms within the zoning political economy literature. The Article offers five hypotheses for why some cities have embraced more housing. They include, (1) developer influence in local decision-making; (2) dense housing’s direct and indirect positive impact on home values; (3) renter participation in local politics; (4) housing supporters’ reduced collective-action barriers; and (5) the effect of public-interest decision-making.

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INTRODUCTION

America is experiencing a zoning revolution. The basic structure and function of zoning, the most pervasive form of U.S. land-use regulation, have endured and governed the built environment for the past hundred years.¹ But as of early 2024, at least eight states and more than one hundred cities have adopted wide-ranging deregulatory measures to promote new housing supply and affordability.²

These measures most prominently include modifying single-family zoning—which permits only one detached house per parcel—to allow small multi-family “middle housing” structures and accessory dwelling units (“ADUs”), such as backyard cottages or granny flats.³ Others include allowing apartments in commercial zoning districts and transit-served neighborhoods and reducing permitting procedures for apartment projects.⁴ Several places have eliminated or reduced minimum vehicle parking

1. See Robert C. Ellickson, *The Zoning Straitjacket: The Freezing of American Neighborhoods of Single-Family Houses*, 96 IND. L.J. 395, 427 (2021) (describing single-family zoning’s particular durability).

2. Joshua Cantong et al., *Zoning Reform Tracker*, OTHERING & BELONGING INST. (Mar. 13, 2023), <https://belonging.berkeley.edu/zoning-reform-tracker> [https://perma.cc/PGF4-V9Y9]; Joshua Cantong, *The Destabilization of American Zoning*, OTHERING & BELONGING INST. (May 15, 2024), <https://belonging.berkeley.edu/destabilization-american-zoning> [https://perma.cc/2GFU-B2QE]; Laurel Wamsley, *The Hottest Trend in U.S. Cities? Changing Zoning Rules to Allow More Housing*, NPR (Feb. 17, 2024), <https://www.npr.org/2024/02/17/1229867031/housing-shortage-zoning-reform-cities> [https://perma.cc/J286-GSY7]; Molly Bolan, *States Increasingly Join the Land Use Reform Rodeo*, ROUTE FIFTY (Jan. 11, 2024), <https://www.route-fifty.com/management/2024/01/states-increasingly-join-land-use-reform-rodeo/393289> [https://perma.cc/8ZF2-FU52]. As of June 2024, states that have adopted reforms include Arizona, California, Colorado, Maine, Massachusetts, Montana, Oregon, Vermont, and Washington. See *infra* Section I.B.2.

3. See, e.g., SHAZIA MANJI ET AL., INCENTIVIZING HOUSING PRODUCTION: STATE LAWS FROM ACROSS THE COUNTRY TO ENCOURAGE OR REQUIRE MUNICIPAL ACTION 13 (2023), <https://turnercenter.berkeley.edu/wp-content/uploads/2023/02/State-Land-Use-Report-Final-1.pdf> [https://perma.cc/X43U-9LYT] (discussing preemptive state-law interventions generally); Brian J. Connolly, *The Black Box of Single-Family Zoning Reform*, 65 B.C. L. REV. 2327, 2366–71 (2024) (describing reforms generally); Cantong, *supra* note 2 (providing data on reforms); *State Preemption of Local Zoning Laws as Intersectional Climate Policy*, 135 HARV. L. REV. 1592, 1592 (2022) [hereinafter *State Preemption of Local Zoning Laws*] (“Most typically, these states mandate that any land zoned for single-family housing . . . allow ‘middle housing,’ typically defined as duplexes, triplexes, and the like.”). The small multi-family structures typically allowed in place of single-family detached houses tend to range in size from two to six units, and are regularly called “middle housing.” These reforms are generally referred to through this Article as “single-family zoning reforms.”

4. E.g., CAL. GOV’T CODE §§ 65400, 65582.1, 65589.9, 65913.4 (2017); MONT. CODE ANN. § 76-2-304 (2024); FLA. STAT. § 420.0003 (2023); 2024 Colo. Legis. Serv. Ch. 168 (West); see also Cantong, *supra* note 2.

requirements.⁵ Supplementing these interventions, some state legislatures have provided additional funding for affordable housing planning and development.⁶ When adopted by states, these changes preempt local zoning; however, some localities have independently changed their zoning laws to allow more housing or reduce housing construction costs.⁷ Many of these reforms have been urged by the national Yes In My Backyard (“YIMBY”) movement and allied membership organizations that support adding more housing in their communities.⁸ This Article examines why this movement has succeeded despite longstanding anti-growth “not-in-my-backyard” (“NIMBY”) biases in many places.

These changes are happening amid a challenging housing crisis. With record-high home prices, the vast majority of households now cannot afford

5. *E.g.*, 2024 Colo. Legis. Serv. Ch. 159 (West).

6. *See, e.g.*, Ben Christopher, *State’s End-of-Year Affordable Housing Bonanza Likely to Leave Dozens of Near-Ready Projects ‘Mothballed,’* CALMATTERS (Dec. 22, 2023), <https://calmatters.org/housing/2023/12/affordable-housing-california-2/> [<https://perma.cc/3Z54-Q4T4>]; Penny Thomas, *Commerce Awards \$240,000 to Five Regional Partnerships Planning for Low-Income Housing Needs*, WASH. ST. DEP’T COM. (Mar. 12, 2024), <https://www.commerce.wa.gov/news/commerce-awards-240000-to-five-regional-partnerships-planning-for-low-income-housing-needs/> [<https://perma.cc/V7A8-KWTK>]; Governor Hochul Awards \$260 Million in Funding to Build and Preserve More Than 1,800 Homes Across New York, N.Y. STATE: HOMES & CMTY. RENEWAL (Mar. 18, 2024), <https://hcr.ny.gov/news/governor-hochul-awards-260-million-funding-build-and-preserve-more-1800-homes-across-new-york> [<https://perma.cc/LM6C-CFV2>].

7. *See* Connolly, *supra* note 3, at 2366–71; John Infranca, *The New State Zoning: Land Use Preemption Amid a Housing Crisis*, 60 B.C. L. REV. 823, 875 (2019); MANJI ET AL., *supra* note 3, at 15–16. This Article uses the term “locality” to describe a general-purpose local government, such as a city, town, village, county or other jurisdiction that adopts zoning. Throughout the Article, it is used interchangeably with the terms “local government,” “municipality,” “city,” and “jurisdiction.”

8. *See* Brandon M. Weiss, *Opportunity Zones, 1031 Exchanges, and Universal Housing Vouchers*, 110 CALIF. L. REV. 179, 215 (2022) (“The Yes In My Backyard (or YIMBY) movement is galvanizing energy around reducing regulatory barriers at the state and local levels to new housing supply that could help ease vacancy rates in the future.”). *See generally* YIMBY ACTION, 2023 IMPACT REPORT (2024), <https://new.yimbyaction.org/impact-report/2023/> [<https://perma.cc/PTP7-CAKD>] (describing the activities of the national YIMBY Action organization). The term YIMBY was developed to counter the commonly used term “NIMBY,” which means “Not in My Backyard” and is used to describe attitudes and people opposed to new development. *See, e.g.*, *About Us*, NEIGHBORS FOR MORE NEIGHBORS, <https://moreneighbors.org/landing/about-us> [<https://perma.cc/39VH-WXGR>]; *About Us*, NEIGHBORS FOR BOISE, <https://www.neighborsforboise.com/about-us> [<https://perma.cc/3KKM-YVYY>]; *see also* WILLIAM A. FISCHEL, *THE HOMEVOTER HYPOTHESIS: HOW HOME VALUES INFLUENCE LOCAL GOVERNMENT TAXATION, SCHOOL FINANCE, AND LAND-USE POLICIES* 9 (2001).

a median-priced new house.⁹ Half of renter households are cost-burdened, including more than forty percent of middle-income renter households.¹⁰ Among the lowest-income households, homelessness has increased rapidly in recent years.¹¹ Meanwhile, unaffordable housing suppresses national economic productivity, restricting labor force mobility and causing worker shortages in essential fields.¹² It also exacerbates income and wealth stratification between high- and low-skill workers, homeowners and non-homeowners, and White and non-White households, respectively.¹³ And it forces workers to live further from their jobs, increasing vehicle miles traveled and greenhouse gas emissions, and compounding the climate emergency.¹⁴ The crisis has attracted national political attention, raising voter

9. *S&P CoreLogic Case-Shiller U.S. National Home Price Index*, FED. RSRV. BANK ST. LOUIS (Nov. 26, 2024), <https://fred.stlouisfed.org/series/CSUSHPINSA> [<https://perma.cc/J4YC-S4XF>]; Bryan Mena, *US Home Prices Hit Another Record High in March*, CNN BUS. (May 28, 2024), <https://www.cnn.com/2024/05/28/economy/us-home-prices-case-shiller-march/index.html> [<https://perma.cc/Y5N9-XWV2>] (describing the home-price record reached in March 2024); NA ZHAO, NAT’L ASS’N OF HOME BUILDERS, *NEARLY 77% OF U.S. HOUSEHOLDS CANNOT AFFORD A MEDIAN-PRICED NEW HOME 1* (2024), <https://www.nahb.org/-/media/92C2A6275259435A8199FE05FDF4DEBC.ashx> [<https://perma.cc/3SN6-3VUR>] (noting that seventy-seven percent of U.S. households cannot afford a median-priced home); Addy Bink, *You Need to Earn at Least \$100K to Afford a Typical Home in These States: Analysis*, THE HILL (Apr. 6, 2024), https://thehill.com/homenews/nexstar_media_wire/4568442-you-need-to-earn-at-least-100k-to-afford-a-median-priced-home-in-these-states-analysis [<https://perma.cc/GGS7-HSRA>].

10. JOINT CTR. FOR HOUS. STUD. OF HARV. UNIV., *AMERICA’S RENTAL HOUSING 2024*, at 3, 26, 34 (2024), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_Americas_Rental_Housing_2024.pdf [<https://perma.cc/L684-AWV4>]. A cost-burdened household is one that spends more than thirty percent of its income on housing-related costs, such as rent and utilities. *Id.* at 34.

11. Daniel Soucy et al., *State of Homelessness: 2024 Edition*, NAT’L ALL. TO END HOMELESSNESS (Aug. 5, 2024), <https://endhomelessness.org/state-of-homelessness> [<https://perma.cc/RV72-HKGM>].

12. See Chang-Tai Hsieh & Enrico Moretti, *Housing Constraints and Spatial Misallocation*, 11 AM. ECON. J.: MACROECON. 1, 2 (2019); Edward Glaeser & Joseph Gyourko, *The Economic Implications of Housing Supply*, 32 J. ECON. PERSPS. 3, 23–27 (2018); ANDREW AURAND ET AL., NAT’L LOW INCOME HOUS. COAL., *THE GAP: A SHORTAGE OF AFFORDABLE HOMES 13* (2023), https://nlihc.org/sites/default/files/gap/Gap-Report_2023.pdf [<https://perma.cc/2WDT-5M42>] (describing worker shortages in childcare, education, and health care).

13. See Peter Ganong & Daniel Shoag, *Why Has Regional Income Convergence in the U.S. Declined?*, 102 J. URB. ECON. 76, 90 (2017); Edward Glaeser & Joseph Gyourko, *The Economic Implications of Housing Supply*, 32 J. ECON. PERSP. 3, 20–22 (2018); KATHERINE LEVINE EINHORN ET AL., *NEIGHBORHOOD DEFENDERS 9* (2020); Rolf Pendall, *Local Land Use Regulation and the Chain of Exclusion*, 66 J. AM. PLAN. ASS’N 125, 127 (2000).

14. See Adie Tomer et al., *We Can’t Beat the Climate Crisis Without Rethinking Land Use*, BROOKINGS (May 12, 2021), <https://www.brookings.edu/articles/we-cant-beat-the-climate-crisis->

concerns and prompting both major-party candidates in the 2024 presidential election to release housing platforms.¹⁵

Although demographic changes,¹⁶ monetary policy,¹⁷ and labor¹⁸ and supply-chain¹⁹ constraints have contributed to high housing costs, economists have also concluded that restrictive land-use regulations play a significant

without-rethinking-land-use/ [https://perma.cc/S28B-MCLJ]; Samantha Fu, *How Cities Can Tackle Both the Affordable Housing and Climate Crises*, HOUS. MATTERS (Nov. 2, 2022), <https://housingmatters.urban.org/articles/how-cities-can-tackle-both-affordable-housing-and-climate-crises> [https://perma.cc/MSR6-NUXZ]; *Smart Growth and Affordable Housing*, U.S. EPA, <https://www.epa.gov/smartgrowth/smart-growth-and-affordable-housing> [https://perma.cc/Q3WG-XZYW].

15. See Rebecca Schneid, *Here's What Harris and Trump Have Proposed to Help the Housing Crisis*, TIME (Sept. 11, 2024), <https://time.com/7020243/kamala-harris-donald-trump-housing-policy/> [https://perma.cc/S2P7-KB57]; Emily Ekins & Jordan Gygi, *Poll: 87% of Americans Worry about the Cost of Housing; 69% Worry Their Kids and Grandkids Won't Be Able to Buy a Home*, CATO INST. (Dec. 14, 2022), <https://www.cato.org/survey-reports/poll-87-americans-worry-about-cost-housing-69-worry-their-kids-grandkids-wont-be> [https://perma.cc/JSM3-9W9T]; Dana Anderson, *Housing Affordability Is Gen Z's Top Voting Issue, Outweighing Abortion Rights and the Economy: Redfin Survey*, REDFIN (June 3, 2024), <https://www.redfin.com/news/gen-z-housing-affordability-important-vote> [https://perma.cc/JJQ4-W96K]; Lauren Fedor & Eva Xiao, *Support for Joe Biden's Economic Policies Wanes amid Inflation Fears, FT Poll Finds*, FIN. TIMES (May 12, 2024), <https://www.ft.com/content/46c6cc07-ec71-4d8b-a630-9c39f5856b7c> [https://perma.cc/2AZR-JHKC]; *Americans Want Policymakers to Act on Housing Affordability*, NAT'L ASS'N OF HOME BUILDERS (June 10, 2024), <https://www.nahb.org/news-and-economics/press-releases/2024/06/americans-want-policymakers-to-act-on-housing-affordability> [https://perma.cc/NK9J-JY9L].

16. See Brian J. Connolly et al., *Tackling the Affordability Crisis in the West: The Colorado Housing Affordability Project and the Challenge of Zoning Reform*, 58 IDAHO L. REV. 513, 516–17 (2022) (describing homebuying by Millennials as partly responsible for high housing costs).

17. See Chung Yim Yiu, *Are Central Banks' Monetary Policies the Future of Housing Affordability Solutions*, URB. SCI., Mar. 2023, at 1, 14 (discussing interest rates' impact on housing markets).

18. See Troup Howard et al., *Cracking Down, Pricing Up: Housing Supply in the Wake of Mass Deportation* 24–26 (Oct. 2024) (unpublished manuscript), <https://ssrn.com/abstract=4729511> [https://perma.cc/W6QU-RWUS] (addressing the relationship between labor shortages and housing costs); Michael Neal & Laurie Goodman, *Labor Conditions Are a Big Factor in Our Current Housing Supply Challenges*, URB. INST. (Jan. 22, 2020), <https://www.urban.org/urban-wire/labor-conditions-are-big-factor-our-current-housing-supply-challenges> [https://perma.cc/P2GX-M7TE].

19. See Adewale A. Maye & Kyle K. Moore, *The Growing Housing Supply Shortage Has Created a Housing Affordability Crisis*, WORKING ECON. BLOG (July 14, 2022), <https://www.epi.org/blog/the-growing-housing-supply-shortage-has-created-a-housing-affordability-crisis> [https://perma.cc/79WA-GW3G] (describing the role of supply-chain issues on housing costs).

role.²⁰ Limiting housing supply increases housing prices and rents.²¹ Where regulations like zoning constrain new housing construction in response to increased demand, prices rise.²²

Nevertheless, it is difficult to pinpoint *which* zoning rules are most responsible for elevated housing prices.²³ Restrictive zoning comes in many forms, including single-family restrictions and other limits on housing-unit density to minimum lot sizes, open space requirements, vehicle parking and other costly construction requirements, and permitting procedures that add cost and risk to development processes.²⁴ Zoning limits new housing production by restricting the amount of available land and making construction riskier and too expensive.²⁵ It further increases housing costs by requiring housing consumers to buy or rent more housing or land than they need.²⁶ There is some evidence that deregulatory reforms reduce or moderate home prices and rents.²⁷

20. See Glaeser & Gyourko, *supra* note 13, at 14 (asserting that the difference “between [housing] price and [construction] cost seems to reflect the influence of regulation, not the scarcity value arising from a purely physical or geographic limitation on the supply of land”); Edward L. Glaeser et al., *Why Is Manhattan So Expensive? Regulation and the Rise in Housing Prices*, 48 J.L. & ECON. 331, 346–51 (2005).

21. Raven Molloy, *The Effect of Housing Supply Regulation on Housing Affordability: A Review*, REG’L SCI. & URB. ECON., January 2020, at 2; Vicki Been et al., *Supply Skepticism Revisited*, 35 HOUS. POL’Y DEBATE 96, 98 (2025).

22. See Molloy, *supra* note 21, at 2; Glaeser et al., *supra* note 20, at 333; Robert C. Ellickson, *Suburban Growth Controls: An Economic and Legal Analysis*, 86 YALE L.J. 385, 394 (1977).

23. Connolly, *supra* note 3, at 2350–53; see also ROBERT C. ELLICKSON, AMERICA’S FROZEN NEIGHBORHOODS: THE ABUSE OF ZONING 18 (2022) (noting the lack of good metrics for quantifying restrictive zoning).

24. Joseph Gyourko et al., *The Local Residential Land Use Regulatory Environment Across U.S. Housing Markets: Evidence from a New Wharton Index*, 124 J. URB. ECON., July 2021, at 2, <https://www.sciencedirect.com/science/article/abs/pii/S009411902100019X> [<https://perma.cc/Z34B-ND2T>].

25. See Sara C. Bronin, *Zoning by a Thousand Cuts*, 50 PEPP. L. REV. 719, 729–31 (2023); DAVID GARCIA, TERNER CTR. FOR HOUS. INNOV. AT UC BERKELEY, MAKING IT PENCIL: THE MATH BEHIND HOUSING DEVELOPMENT 11–12 (2019), <https://turnercenter.berkeley.edu/research-and-policy/making-it-pencil> [<https://perma.cc/PP7J-UTUU>].

26. Lee Anne Fennell, *Homes Rule*, 112 YALE L.J. 617, 635–36 (2002).

27. See, e.g., Amrita Kulka et al., Under the (Neighbor)Hood: Understanding Interactions Among Zoning Regulations 4 (Oct. 12, 2023) (unpublished manuscript), <https://ssrn.com/abstract=4082457> [<https://perma.cc/HX6L-V64U>]; Linlin Liang et al., *Minneapolis Land Use Reforms Offer a Blueprint for Housing Affordability*, PEW (Jan. 4, 2024), <https://pew.org/3S76oXJ> [<https://perma.cc/X7TX-2VVT>]. Reforms to allow smaller lot sizes in Houston, six-story apartment complexes along Minneapolis’s transit corridors, and faster permitting for affordable housing developments in Los Angeles, to name a few, have proven

Dozens of cities have adopted such reforms despite the predictions of prevailing political economy models of zoning decision-making.²⁸ Although the “growth machine” theory of the 1970s asserted that landowners and their business allies hold outsize influence in local land-use politics and thus produce pro-growth regulations,²⁹ more recent theories suggest otherwise. In particular, the “homevoter hypothesis” emphasizes homeowners’ role in opposing new development out of economic self-interest, leading to NIMBYism.³⁰ Now, even urban renters exhibit antigrowth tendencies,

successful. *See, e.g.,* Adam Staveski & Alex Horowitz, *Lot-Size Reform Unlocks Affordable Homeownership in Houston*, PEW (Sept. 14, 2023), <https://pew.org/3R9KNOB> [<https://perma.cc/C42X-DMTY>]; Ben Christopher, *Los Angeles’ One Weird Trick to Build Affordable Housing at No Public Cost*, CALMATTERS (Feb. 10, 2024), <https://laist.com/news/housing-homelessness/affordable-housing-los-angeles-unsubsidized> [<https://perma.cc/MQR4-ARLB>]. Reforms’ success is not universal, however, as some are producing underwhelming results, particularly in places that now allow two- to six-unit “middle housing” developments in single-family districts. *See* Yonah Freemark & Lydia Lo, *Effective Zoning Reform Isn’t as Simple as It Seems*, BLOOMBERG (May 24, 2022), <https://www.bloomberg.com/news/articles/2022-05-24/the-limits-of-ending-single-family-zoning> [<https://perma.cc/A6V8-XJR7>]; Zak Yudhishtu, *Mapping Minneapolis’ Post-2040 Plan Duplexes and Triplexes*, STREETS.MN (Oct. 24, 2023), <https://streets.mn/2023/10/24/mapping-minneapolis-duplexes-and-triplexes/> [<https://perma.cc/5XZM-PHUR>]; Alexandria Sands, *No Mad Dash to Build Duplexes in Charlotte Despite New Rules — and Years of Bickering*, AXIOS CHARLOTTE (Aug. 14, 2023), <https://charlotte.axios.com/336698/duplexes-triplexes-charlotte-development-udo-bickering> [<https://perma.cc/YYG3-E4LN>]. *See generally* BEN METCALF ET AL., TERNER CTR. FOR HOUS. INNOV. AT UC BERKELEY, WILL ALLOWING DUPLEXES AND LOT SPLITS ON PARCELS ZONED FOR SINGLE-FAMILY CREATE NEW HOMES? (July 21, 2021), <https://turnercenter.berkeley.edu/research-and-policy/duplexes-lot-split-sb-9> [<https://perma.cc/XTC5-FYY3>].

28. Throughout this Article, unless otherwise noted, the term “reform” refers to a city- or district-wide deregulatory, pro-housing zoning reform, such as those described *supra* notes 2–6. Furthermore, unless otherwise specified, this term does not refer to parcel-specific zoning amendments to allow, for example, multi-family apartments. Where the term “reform jurisdiction” is used, it refers to a locality that has adopted pro-housing zoning reforms.

29. *See* Harvey Molotch, *The City as a Growth Machine: Toward a Political Economy of Place*, 82 AM. J. SOCIO. 309, 309–10, 322–23 (1976).

30. *See* FISCHER, *supra* note 8, at 4, 9; *see also* Wendell Pritchett & Shitong Qiao, *Exclusionary Megacities*, 91 S. CAL. L. REV. 467, 480 (2018) (describing the “displacement of the growth machine”); Ezra Rosser, *The Euclid Proviso*, 96 WASH. L. REV. 811, 839 (2021) (describing cities’ transition from a growth machine to antigrowth orientation); Vicki Been et al., *Urban Land-Use Regulation: Are Homevoters Overtaking The Growth Machine*, 11 J. EMPIRICAL LEGAL STUD. 227, 235–36 (2014); Jessica Trounstein, *You Won’t Be My Neighbor: Opposition to High Density Development*, 59 URB. AFF. REV. 294, 301 (2023); Eric Biber et al., *Small Suburbs, Large Lots: How the Scale of Land-Use Regulation Affects Housing Affordability, Equity, and the Climate*, 2022 UTAH L. REV. 1, 28; Christopher S. Elmendorf et al., *What State Housing Policies Do Voters Want? Evidence from a Platform-Choice Experiment* 25–26 (Apr. 29, 2024) (unpublished manuscript), <https://ssrn.com/abstract=4811534> [<https://perma.cc/MG6W->

resisting new development out of fear of rent hikes and displacement.³¹ These problems are compounded by local governments’ institutional design—including nonpartisan, ward-based voting and seriatim approvals of land-use applications—that aids anti-development groups’ organizing and capture of local decision-making.³² Additionally, single-family zoning in particular is supported by status quo bias, social rewards for opposition leaders, and anti-developer sentiment.³³

Whereas the foregoing scholarship explains why renters and homeowners alike oppose new housing in their communities—and why such communities restrict it—this Article considers why several places are now allowing *more* housing. The Article situates recent reforms within these models and offers several hypotheses for why some localities are now allowing more housing within their boundaries. It builds upon scholarship that considers why renters and homeowners oppose new housing in their communities,³⁴ levels of popular support for pro-housing interventions,³⁵ and public acceptance of different types of new housing.³⁶ Yet this Article is the first evaluation of the political economy behind local pro-housing zoning reforms.

It might be tempting to write off some communities’ reforms as a simple instance of interlocal heterogeneity or evidence of constituents’ idiosyncratic views and values.³⁷ However, understanding the social and economic motivations behind reform jurisdictions’ pro-growth decision-making provides lawyers, policymakers, researchers, and others with the information necessary to formulate more effective responses to the housing crisis.³⁸ This Article asserts that recent reforms are attributable primarily to reduced collective-action barriers for housing supporters and some homeowners’

QXDM]; Michael Hankinson, *When Do Renters Behave Like Homeowners? High Rent, Price Anxiety, and NIMBYism*, 112 AM. POL. SCI. REV. 473, 480 (2018).

31. See Vicki Been, *City NIMBYs*, 33 J. LAND USE & ENV’T L. 217, 243–44 (2018); see also *infra* Section II.B.4.

32. See Roderick M. Hills, Jr. & David N. Schleicher, *Balancing the “Zoning Budget,”* 62 CASE W. RES. L. REV. 81, 92–93, 101–03 (2011).

33. See Ellickson, *supra* note 1, at 422–26.

34. See generally Paavo Monkkonen & Michael Manville, *Opposition to Development or Opposition to Developers? Experimental Evidence on Attitudes Toward New Housing*, 41 J. URB. AFFS. 1123 (2019).

35. See generally Elmendorf et al., *supra* note 30.

36. See generally Trounstein, *supra* note 30.

37. See PAUL E. PETERSON, *CITY LIMITS* 115 (1981); J. ERIC OLIVER ET AL., *LOCAL ELECTIONS AND THE POLITICS OF SMALL-SCALE DEMOCRACY* 152 (2012).

38. See Noah M. Kazis, *Transportation, Land Use, and the Sources of Hyper-Localism*, 106 IOWA L. REV. 2339, 2365–66 (2021) (asserting that the “most lasting” approach to creating pro-housing politics requires persuading local electorates to accept more housing).

noneconomic interest in advancing the welfare of their communities, but that reform jurisdictions' constituents also recognize the economic benefits of additional housing density.

The Article proceeds in three parts. Part I briefly introduces zoning's structure and function and describes recently adopted reforms, including single-family zoning reforms.

Part II reviews the existing political economy literature on zoning decision-making. It considers the contributions of scholars from Harvey Molotch and William Fischel to Roderick Hills, Jr., David Schleicher, and Robert Ellickson in sketching out a picture of how local constituents' and other stakeholders' self-interest motivates zoning decision-making and how local governments' structure and procedures aid or thwart particular stakeholders or policy outcomes.

Part III then hypothesizes why some localities allow more housing construction. There are several possible explanations. First, reforms that clearly benefit large landowners or businesses, such as those allowing the construction of high-density apartments, might be a product of the growth machine. Second, pro-housing reforms might, consistent with the homevoter hypothesis, be driven by homeowners who gain from more housing, whether directly through their ability to monetize their property or indirectly through improved neighborhood amenities. Third, reforms could reflect heightened renter influence in local government, particularly where high housing costs force politically active demographic groups—such as older, educated, and high-income people—to rent their housing. Fourth, the severity of the housing crisis and technological change may empower housing supporters to overcome the collective-action barriers created by local governments' institutional design. Fifth and finally, in jurisdictions that have adopted pro-housing zoning reforms, public-interest decision-making may be prevailing. Residents and officials may allow more housing simply because of ideological inclinations or perceived social benefit. Although many of these models may be at work in recent reforms, this Article asserts that the type of widespread zoning reform necessary to address the housing crisis will not be achievable unless and until reformers and policymakers convince homeowners that more housing benefits them.

This Article is an important first step in understanding why zoning reforms are adopted. Further empirical study is necessary to confirm this analysis.³⁹ In the future, it will be crucial to understand how reform jurisdictions'

39. In future work, I plan to present the results of some qualitative analysis—primarily interviews of local elected officials, administrators, and citizens—who have been closely involved in these reform efforts.

demographic and economic characteristics, local political ideologies and competitiveness, geography, and interest-group organizing impact their reforms. In any case, public support for reforms will be necessary to their success, and the hypotheses presented in this Article offer an initial guidepost for building it.

Some qualifications apply. This Article focuses centrally on *local* zoning reforms, particularly single-family zoning reforms. It is concerned mainly with jurisdiction-wide pro-housing legislative reforms rather than judicial interventions⁴⁰ or site-specific adjudicative decisions to allow more housing.⁴¹ However, its lessons likely apply to other local and state zoning reform efforts, too. In particular, to the extent local governments fail to address housing undersupply, states may step in to preempt local exclusionary rules.⁴² Nevertheless, the same people who vote in local elections also vote in state elections, meaning that the models offered here likely have some state-level application.⁴³

Understanding why governments adopt zoning reforms to facilitate housing construction is critically important. A hundred years of land-use regulation have, at least by economists’ accounts, suppressed housing construction and caused a national crisis. Political economy scholarship casts doubt on local governments’ ability to revive large-scale housing construction. However, some communities have bucked these predictions and adopted reforms to encourage more housing supply. By trying to make sense of their path, this Article presents a roadmap for how other places might achieve similar reforms to help address an urgent national problem.

I. THE ZONING REVOLUTION

In response to the housing crisis, states and local governments are moving swiftly to amend zoning laws that previously limited new housing

40. An example of such interventions includes *Southern Burlington County N.A.A.C.P. v. Township of Mount Laurel*, 336 A.2d 713 (N.J. 1975), in which the New Jersey Supreme Court held that localities in that state had a constitutional obligation to provide their fair share of affordable housing.

41. See *Fasano v. Bd. of Cnty. Comm’rs*, 507 P.2d 23, 25–27 (Or. 1973) (describing the difference between local legislative and adjudicative decision-making in zoning).

42. See *infra* notes 109–20 and accompanying text.

43. See Richard Schragger, *Consuming Government*, 101 MICH. L. REV. 1824, 1824, 1826 (2003) (describing suburban voters’ importance to state politics).

construction.⁴⁴ This Part discusses zoning and recent reforms. Although the basic contours of zoning have been well-covered by other authors,⁴⁵ Section I.A offers a brief summary of zoning's function and current practice. Section I.B then describes how localities and states are reforming it in the face of the housing crisis.

A. About Zoning

Zoning divides the nation's 39,000 localities into geographic districts to regulate land use.⁴⁶ A typical zoning law has two components: a district map and text provisions containing rules for each district regarding allowed land uses, development and dimensional standards, and development permitting procedures.⁴⁷ The districts generally separate residential, commercial, industrial, and other uses from one another and contain subcategories of uses, like *single-family* or *multi-family* residential, within these broad categories.⁴⁸ Zoning laws are adopted and amended by a locality's legislative governing body, such as a city council, village board, or county commission, usually following the recommendation of an appointed body such as a planning commission.⁴⁹

First adopted in the early twentieth century, zoning is now the most common form of public land-use regulation in the United States.⁵⁰ Today,

44. See Bolan, *supra* note 2; Emily Badger & Quoc Trung Bui, *Cities Start to Question an American Ideal: A House with a Yard on Every Lot*, N.Y. TIMES (June 18, 2019), <https://www.nytimes.com/interactive/2019/06/18/upshot/cities-across-america-question-single-family-zoning.html>.

45. See generally SONIA A. HIRT, ZONED IN THE USA: THE ORIGINS AND IMPLICATIONS OF AMERICAN LAND-USE REGULATION (2014); RICHARD F. BABCOCK, THE ZONING GAME: MUNICIPAL PRACTICES AND POLICIES 17 (1966).

46. Bronin, *supra* note 25, at 728; M. NOLAN GRAY, ARBITRARY LINES: HOW ZONING BROKE THE AMERICAN CITY AND HOW TO FIX IT 34 (2022); Kenneth Stahl, *The Suburb as a Legal Concept: The Problem of Organization and the Fate of Municipalities in American Law*, 29 CARDOZO L. REV. 1193, 1272 (2008); Wenfei Xu et al., *A National Zoning Atlas to Inform Housing Research, Policy, and Public Participation*, 25 CITYSCAPE 55, 57 (2023).

47. Bronin, *supra* note 25, at 728; GRAY, *supra* note 46, at 34; Connolly, *supra* note 3, at 2351; Robert C. Ellickson, *Zoning and the Cost of Housing: Evidence from Silicon Valley, Greater New Haven, and Greater Austin*, 42 CARDOZO L. REV. 1611, 1614 (2021).

48. GRAY, *supra* note 46, at 37–38.

49. Biber et al., *supra* note 30, at 11.

50. *The Basics of Land Use and Zoning Law*, TUL. UNIV. L. SCH. BLOG (Aug. 26, 2021), <https://online.law.tulane.edu/blog/land-use-and-zoning-law> [https://perma.cc/7N2T-3PKZ]; see also Rolf Pendall et al., *Shifts Toward the Extremes*, 88 J. AM. PLAN. ASS'N 55, 56 (2022); Connolly, *supra* note 3, at 2354.

most localities maintain zoning.⁵¹ Each local zoning code can span hundreds or thousands of pages, and despite several common components, codes often vary widely between localities, resulting in regulatory complexity even within a single metropolitan region.⁵²

Local zoning power derives from state law and comprises one of localities’ most important powers.⁵³ It enables localities to exclude unwanted uses or people, maintain or improve property values, and control their physical buildout.⁵⁴ This power explains why many municipalities, particularly suburbs, incorporate in the first instance and why many regions are fragmented into hundreds of localities.⁵⁵ Because of the breadth of discretion afforded to zoning laws and actions,⁵⁶ courts rarely invalidate them.⁵⁷

Almost every locality provides at least one single-family residential district.⁵⁸ Single-family dwellings are allowed on most urban or suburban land.⁵⁹ Many codes limit these dwellings’ occupancy to groups of people related by blood, marriage, or adoption, or very small groups of unrelated people.⁶⁰ Single-family districts utilize minimum lot sizes, large setbacks, and

51. See GRAY, *supra* note 46, at 30; Pendall et al., *supra* note 50, at 59.

52. See Christopher Serkin, *Divergence in Land Use Regulations and Property Rights*, 92 S. CAL. L. REV. 1055, 1059 (2019); JENNY SCHUETZ, *FIXER-UPPER: HOW TO REPAIR AMERICA’S BROKEN HOUSING SYSTEMS* 22 (2022).

53. See Richard Briffault, *Our Localism: Part I – The Structure of Local Government Law*, 90 COLUM. L. REV. 1, 19, 57 (1990); Edward J. Sullivan, *Will Housing Become the Inflection Point for Realignment of State Land Use Structures?*, 58 IDAHO L. REV. 495, 495 (2022); John Mangin, *The New Exclusionary Zoning*, 25 STAN. L. & POL’Y REV. 91, 99–100 (2014); Sarah J. Adams-Schoen, *The White Supremacist Structure of American Zoning Law*, 88 BROOK. L. REV. 1225, 1275–76 (2023); Stahl, *supra* note 46, at 1272 (discussing the importance of zoning authority to local governments); Ellickson, *supra* note 22, at 390–403 (describing the importance of zoning powers).

54. See Paavo Monkkonen & Michael Manville, *Unwanted Housing: Localism and Politics of Housing Development*, 44 J. PLAN. EDUC. & RSCH. 685, 692 (2024).

55. See Stahl, *supra* note 46, at 1268–72; Briffault, *supra* note 53, at 79.

56. See, e.g., *Vill. of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 388 (1926); *Members of City Council of City of L.A. v. Taxpayers for Vincent*, 466 U.S. 789, 805 (1984); *Vill. of Belle Terre v. Boraas*, 416 U.S. 1, 9 (1974); *Berman v. Parker*, 348 U.S. 26, 33 (1954).

57. Paul Boudreaux, *Lotting Large: The Phenomenon of Minimum Lot Size Laws*, 68 ME. L. REV. 1, 27 (2016); Kenneth A. Stahl, *Reliance in Land Use Law*, 2013 BYU L. REV. 949, 984–85.

58. See HIRT, *supra* note 45, at 7.

59. See Bronin, *supra* note 25, at 729; Adams-Schoen, *supra* note 53, at 1298; Richard F. Babcock, *The Egregious Invalidity of the Exclusive Single-Family Zone*, 35 LAND USE L. & ZONING DIG. 4, 4 (1983); SCHUETZ, *supra* note 52, at 21 (noting that the majority of land in every U.S. city or county is zoned for single-family detached residential uses).

60. See Adams-Schoen, *supra* note 53, at 1295; Sara C. Bronin, *Zoning For Families*, 95 IND. L.J. 1, 5–7 (2020); Frank S. Alexander, *The Housing of America’s Families: Control, Exclusion, and Privilege*, 54 EMORY L.J. 1231, 1259–60 (2005).

restrictions on building heights to preserve a low-density character.⁶¹ Under most zoning laws, single-family homes can be built “as-of-right,” under an administrative or ministerial process requiring only a building permit if the landowner complies with all of the objective standards of the zoning and building regulations.⁶² Single-family zoning is particularly durable, too: once land is zoned for single-family dwellings, its designation almost never changes.⁶³

Conversely, zoning laws make far less land area available for other uses, including apartments and other denser housing.⁶⁴ Even in districts that allow other uses, dimensional and procedural restrictions can stifle development.⁶⁵ Restrictions on unit density (typically measured in dwelling units per acre), building height, and setbacks; requirements that developers provide open space or vehicle parking; and developer obligations to provide public improvements can directly or indirectly limit the number of buildable housing units on a parcel.⁶⁶ And uses other than single-family dwellings require additional approval procedures⁶⁷—they must often undergo discretionary proceedings, such as a rezoning or special use procedure, involving public hearings and notice to nearby landowners.⁶⁸ Such proceedings generally offer numerous opportunities for public participation and subjective approval standards that empower local governments to reject projects or extract

61. See Edward H. Ziegler, Jr., *The Twilight of Single-Family Zoning*, 3 UCLA J. ENV'T. L. & POL'Y 161, 169 (1983).

62. GRAY, *supra* note 46, at 60–61.

63. Ellickson, *supra* note 1, at 426–27.

64. Adams-Schoen, *supra* note 53, at 1298.

65. See Connolly, *supra* note 3, at 2360–63.

66. See GRAY, *supra* note 46, at 39–42; Bronin, *supra* note 25, at 730–31; Ziegler, *supra* note 61, at 169; Jonathan Zasloff, *The Price of Equality: Fair Housing, Land Use, and Disparate Impact*, 48 COLUM. HUM. RTS. L. REV. 98, 115 (2017); Jenny Schuetz & Hannah Hoyt, *Making Apartments More Affordable Starts with Understanding the Costs of Building Them*, BROOKINGS (May 5, 2020), <https://www.brookings.edu/articles/making-apartments-more-affordable-starts-with-understanding-the-costs-of-building-them> [<https://perma.cc/UUZ8-XVWP>].

67. See GRAY, *supra* note 46, at 61; Moira O'Neill et al., *Developing Policy from the Ground Up: Examining Entitlement in the Bay Area to Inform California's Housing Policy Debates*, 25 HASTINGS ENV'T L.J. 1, 50 (2019).

68. See GRAY, *supra* note 46, at 61; see also Michael Manville et al., *Does Discretion Delay Development? The Impact of Approval Pathways on Multifamily Housing's Time to Permit*, 89 J. AM. PLAN. ASS'N 336, 336 (2023); Anika Singh Lemar, *Overparticipation: Designing Effective Land Use Public Processes*, 90 FORDHAM L. REV. 1083, 1092–93 (2021); Ellickson, *supra* note 47, at 1632; Michael Allan Wolf, *Zoning Reformed*, 70 U. KAN. L. REV. 171, 215 (2021). The term “rezoning” refers to the procedure by which the zoning map is amended to place a given parcel in a different district from which it was initially zoned. GRAY, *supra* note 46, at 44.

benefits from developers in exchange for approvals.⁶⁹ These procedures add cost and delay, sometimes resulting in multi-year approval processes.⁷⁰

Whereas early zoning avoided discretion in favor of objective standards and ministerial processes, today’s zoning laws afford more discretion to local officials.⁷¹ This trend, combined with more onerous development standards, has led some scholars to observe increased restrictiveness in zoning.⁷² Restrictive zoning limits housing production, thereby driving up housing prices⁷³; increases racial segregation⁷⁴; and excludes lower-income people who cannot afford large houses on large lots.⁷⁵

Zoning is not alone in affecting the built environment and housing prices.⁷⁶ Other public land-use regulations that influence housing prices include environmental review requirements,⁷⁷ historic preservation rules,⁷⁸ adequate public facilities ordinances and exactions requirements,⁷⁹ and building codes.⁸⁰ *Private* land-use regulations like covenants, conditions, and

69. Bronin, *supra* note 25, at 729; Biber et al., *supra* note 30, at 12; Ellickson, *supra* note 47, at 1622; Lemar, *supra* note 68, at 1092.

70. GRAY, *supra* note 46, at 61; Christopher S. Elmendorf, *Beyond the Double Veto: Housing Plans as Preemptive Intergovernmental Compacts*, 71 HASTINGS L.J. 79, 88 (2019).

71. See Ellickson, *supra* note 47, at 1622; Elmendorf, *supra* note 70, at 88; LEVINE EINHORN ET AL., *supra* note 13, at 81; HIRT, *supra* note 45, at 147.

72. See, e.g., Gyourko et al., *supra* note 24, at 34–35; Been, *supra* note 31, at 249; David Schleicher, *City Unplanning*, 122 YALE L.J. 1670, 1674 (2013); ELLICKSON, *supra* note 23, at 1619, 1622.

73. See Glaeser & Gyourko, *supra* note 13, at 3; Glaeser et al., *supra* note 20; SCHUETZ, *supra* note 52, at 29 (discussing how zoning laws directly affect new home prices, but indirectly affect existing home prices). For example, studies demonstrate that where local zoning laws impose heavy dimensional and procedural restrictions on multi-family housing, far less gets produced. See EINHORN ET AL., *supra* note 13, at 66–67; O’Neill et al., *supra* note 67, at 28.

74. See Jonathan Rothwell & Douglas S. Massey, *The Effect of Density Zoning on Racial Segregation in U.S. Urban Areas*, 44 URB. AFF. REV. 779, 785 (2009). Rolf Pendall has observed a “chain of exclusion” wherein local governments’ restrictive zoning and other land-use regulations limit the construction of multi-family apartments and other forms of rental housing that are more likely to house members of racial and ethnic minority groups, thus resulting in the exclusion of these groups from many communities. Pendall, *supra* note 13, at 133–34.

75. See Boudreaux, *supra* note 57, at 9.

76. See, e.g., Connolly, *supra* note 3, at 2355; Ellickson, *supra* note 47, at 1614; Serkin, *supra* note 52, at 1064.

77. See Moira O’Neill et al., *Measuring Local Policy to Advance Fair Housing and Climate Goals Through a Comprehensive Assessment of Land Use Entitlements*, 50 PEPP. L. REV. 505, 535 (2023); Mangin, *supra* note 53, at 100–01.

78. See Serkin, *supra* note 52, at 1068–69.

79. See Vicki Been, *Impact Fees and Housing Affordability*, 8 CITYSCAPE 139, 140 (2005); ARTHUR C. NELSON ET AL., A GUIDE TO IMPACT FEES AND HOUSING AFFORDABILITY 64 (2008).

80. See Joseph Gyourko & Raven Molloy, *Regulation and Housing Supply*, in HANDBOOK OF REGIONAL AND URBAN ECONOMICS 1289, 1296 (Gilles Duranton et al., eds., 2015).

restrictions also regulate large portions of the built environment.⁸¹ Like zoning laws, covenants frequently govern land uses, dimensional and design standards, and permitting procedures.⁸² Although it is difficult to ascertain private land-use regulations' geographic coverage and effect on housing prices, it is estimated that more than thirty percent of U.S. households live in covenant-controlled communities and, in some states, more than half of owner-occupied homes are subject to them.⁸³

B. Surveying The Zoning Reform Landscape

Low-density zoning changes infrequently.⁸⁴ Localities occasionally rezone specific parcels, generally upon a developer's application, to permit greater housing density.⁸⁵ They sometimes downzone property in response to neighborhood concerns about new development.⁸⁶ In some cases, cities amend their zoning laws to allow more apartments, greater building heights, or increased building bulk in certain districts.⁸⁷ Yet despite occasional changes to allow group homes or ADUs, there are few examples of localities

81. See Richard C. Schragger, *The Perils of Land Use Deregulation*, 170 U. PA. L. REV. 125, 136 (2021).

82. See Dwight Merriam, *Affordable Housing: Three Roadblocks to Regulatory Reform*, 51 URB. L. 343, 367 (2022); Mary Jo Wiggins, *Supremacy Lost?: Zoning, Covenants, and the Evolution of Single-Family Ownership*, 128 PENN ST. L. REV. 127, 148 (2023).

83. See Kenneth Stahl, *The Power of State Legislatures to Invalidate Private Deed Restrictions: Is It an Unconstitutional Taking?*, 50 PEPP. L. REV. 579, 582 (2022); Merriam, *supra* note 82, at 367–68; *Statistical Review: Summary of Key Association Data and Information*, FOUND. FOR CMTY. ASS'N RSCH., <https://foundation.caionline.org/publications/factbook/statistical-review> [<https://perma.cc/YW9L-H7BE>]; Robert C. Ellickson, *Stale Real Estate Covenants*, 63 WM. & MARY L. REV. 1831, 1833–34 (2022).

84. See, e.g., Michael Manville et al., *It's Time to End Single-Family Zoning*, 86 J. AM. PLAN. ASS'N 106, 108 (2020); Ellickson, *supra* note 1, at 427; John Infranca, *Singling Out Single-Family Zoning*, 111 GEO. L.J. 659, 671 (2023); Ziegler, *supra* note 61, at 184. See generally C.J. Gabbe, *Why Are Regulations Changed? A Parcel Analysis of Upzoning in Los Angeles*, 38 J. PLAN. EDUC. & RSCH. 289 (2018) (noting that, over the period from 2002 to 2014, just 1.1% of Los Angeles's land area was rezoned, which exemplifies the rarity of rezoning).

85. See Schleicher, *supra* note 72, at 1705–06 (describing the process of rezoning); Gabbe, *supra* note 84, at 289.

86. See Been, *supra* note 31, at 222–23. The term “downzone” generally refers to an amendment that makes zoning stricter or otherwise limits the development capacity of a given parcel.

87. Christina Stacy et al., *Land-Use Reforms and Housing Costs: Does Allowing for Increased Density Lead to Greater Affordability?*, 60 URB. STUD. 2919, 2962 (2023).

upzoning areas reserved for lower-density development, particularly single-family homes.⁸⁸ That is, until now.

Since 2015, local governments across the United States have adopted more than one hundred deregulatory reforms to allow more housing construction.⁸⁹ Seventy-five localities have changed their zoning codes to allow ADUs in single-family districts, and forty-one now allow middle housing in those districts.⁹⁰ Others now allow higher-density residential uses, such as multi-family apartments, near transit, and still others have adopted other measures to ease housing construction, such as reducing parking requirements.⁹¹ This Section describes these reforms.

1. Local Reforms

In 2018, Minneapolis became the first major city to undertake citywide zoning reform.⁹² It adopted a new comprehensive plan calling for administrative approval of up to three dwelling units on every residential lot and higher-density multi-family housing along the city’s transit corridors.⁹³ The plan expressly acknowledged single-family zoning’s role in perpetuating racial and ethnic disparities in wealth and access to opportunity.⁹⁴ The city codified the plan with updated zoning regulations in 2019.⁹⁵ These reforms followed its elimination of parking requirements for medium-sized (three- to

88. Manville et al., *supra* note 84, at 108; Ziegler, *supra* note 61, at 184; Babcock, *supra* note 59, at 4–5.

89. Cantong, *supra* note 2.

90. *Id.*

91. *See id.*

92. Sarah Mervosh, *Minneapolis, Tackling Housing Crisis and Inequity, Votes to End Single-Family Zoning*, N.Y. TIMES (Dec. 13, 2018), <https://www.nytimes.com/2018/12/13/us/minneapolis-single-family-zoning.html>.

93. MINNEAPOLIS, MINN., MINNEAPOLIS 2040, MINNEAPOLIS 2040—THE CITY’S COMPREHENSIVE PLAN 105–07 (Oct. 25, 2019), [https://minneapolis2040.com/pdf\[https://perma.cc/9WQU-7ZBC\]](https://minneapolis2040.com/pdf[https://perma.cc/9WQU-7ZBC]) [hereinafter MINNEAPOLIS 2040]. A comprehensive plan is a guiding policy document, whereas zoning implements the comprehensive plan. *See* Charles M. Haar, *In Accordance with a Comprehensive Plan*, 68 HARV. L. REV. 1154, 1154–56 (1955). The city council approved the plan on December 7, 2018, but it was published on October 25, 2019, after it was approved by a regional body, the Metropolitan Council. Amended Order Granting Plaintiff’s Motion for Temporary Injunction at 5, *State by Smart Growth Minneapolis v. City of Minneapolis*, No. 27-CV-18-19587 (Minn. Dist. Ct. 4th Jud. Dist., Sept. 5, 2023).

94. MINNEAPOLIS 2040, *supra* note 93, at 8–12.

95. MINNEAPOLIS, MINN., ORDINANCE 2019-048 (Nov. 13, 2019).

fifty-unit) apartment buildings near public transit and reduction in parking requirements for larger buildings.⁹⁶

Several other cities have followed suit.⁹⁷ For example, in 2023, Boise, Idaho amended its zoning to allow denser multi-family housing along its arterial street and transit corridors, fourplexes in areas previously zoned for single-family housing, and ADUs citywide.⁹⁸ It also reduced vehicle parking requirements, established an administrative approval process for many development applications, and reduced public input opportunities for projects allowed by right.⁹⁹ The city conditioned some new development, requiring new three- and four-unit structures to include income-restricted affordable units and imposing public hearing requirements on proposals to demolish or replace residential uses that serve vulnerable populations.¹⁰⁰ St. Paul, Minnesota, amended its zoning laws in 2023 as well, allowing up to four units per lot in formerly single-family neighborhoods, or up to five units per lot in areas near public transit.¹⁰¹ The amendments also allow landowners to build up to two ADUs per single-family home and two additional principal units (i.e., a six-plex) if they are income-restricted, and split lots to enable separate sales of dwellings.¹⁰² A third example is Englewood, Colorado, a Denver

96. MINNEAPOLIS, MINN., ORDINANCE 2015-061 (July 10, 2015); *see also* Owen Minott, *Comprehensive Zoning Reform in Minneapolis, MN*, BIPARTISAN POL’Y CTR. (Oct. 3, 2023), <https://bipartisanpolicy.org/blog/comprehensive-zoning-reform-in-minneapolis-mn> [<https://perma.cc/DQ4M-BA7N>].

97. Cantong et al., *supra* note 2; SCHUETZ, *supra* note 52, at 146 (describing the “handful” of jurisdictions that have adopted zoning reforms).

98. BOISE, IDAHO, ORDINANCE 27-23 (July 18, 2023); *see also* CITY OF BOISE, MODERN ZONING CODE EXECUTIVE SUMMARY 3–4 (2023), <https://issuu.com/cityofboise/docs/pds-modernzoningcode-executivesummary-finaldraft-2> [<https://perma.cc/PY2X-J8K9>] [hereinafter BOISE ZONING CODE SUMMARY].

99. BOISE, IDAHO, ORDINANCE 27-23 (July 18, 2023); *see also* Don Day, *Deep Dive: Boise Is Set to Revamp Its Zoning Code. What It Means, What It Doesn’t, and What’s to Come*, BOISEDEV (Mar. 23, 2023), <https://boisedev.com/news/2023/03/23/boise-zoning-code-rewrite-2> [<https://perma.cc/4MAJ-W4D9>].

100. BOISE, IDAHO, ORDINANCE 27-23 (July 18, 2023); *see also* BOISE ZONING CODE SUMMARY, *supra* note 98, at 3.

101. CITY OF SAINT PAUL, MINN., ORDINANCE 23-43 (Oct. 18, 2023); *see also generally* CITY OF SAINT PAUL, MINN., 1-4 UNIT HOUSING STUDY PHASE 2 3 (2023), https://www.stpaul.gov/sites/default/files/2023-10/1to4_Presentation_100423.pdf [<https://perma.cc/9399-TNB4>]; Christian Britschgi, *St. Paul Passes Politically Practical, Economically Unproductive Zoning Reforms*, REASON FOUND. (Oct. 19, 2023), <https://reason.com/2023/10/19/st-paul-passes-politically-practical-economically-unproductive-zoning-reforms> [<https://perma.cc/254P-DE2T>].

102. CITY OF SAINT PAUL, MINN., *supra* note 101.

suburb that also adopted reforms in 2023.¹⁰³ Its reforms allow ADUs on single-family-zoned lots, including up to three in certain districts.¹⁰⁴ Englewood does not require parking for ADUs and it also lifted a citywide restriction on unrelated people living together.¹⁰⁵

Some local reforms have faced post-adoption legal challenges. After five years of litigation regarding their application,¹⁰⁶ in 2024, the Minnesota legislature passed a law protecting Minneapolis’s comprehensive plan from environmental review requirements.¹⁰⁷ Other reforms, including those passed by Alexandria and Arlington County, Virginia, remain subject to litigation at the time of this writing.¹⁰⁸ In Fort Collins, Colorado, an opposition group gathered enough signatures on a referendum petition to place its reforms on

103. CITY OF ENGLEWOOD, COLO., ORDINANCE 46-2023 (Sept. 25, 2023); *see also* Elisabeth Slay, *CodeNext Gets Final Approval in 4-3 Vote by Englewood City Council*, ENGLEWOOD HERALD (Sept. 26, 2023), <http://coloradocommunitymedia.com/2023/09/26/codenext-gets-final-approval-in-4-3-vote-by-englewood-city-council> [<https://perma.cc/JC64-4USD>].

104. CITY OF ENGLEWOOD, COLO., ORDINANCE 46-2023; *see also* Slay, *supra* note 103.

105. CITY OF ENGLEWOOD, COLO., ORDINANCE 46-2023; *see also* Slay, *supra* note 103.

106. Three advocacy groups challenged Minneapolis’ plan under a state environmental statute authorizing citizen suits. MINN. STAT. § 116B.04(b) (2024). After the groups filed their complaint in 2018, it was dismissed for failure to state a claim; however, the Minnesota Supreme Court reversed on appeal. *State by Smart Growth Minneapolis v. City of Minneapolis*, 7 N.W.3d 418, 424 (Minn. Ct. App. 2024) (citing *State by Smart Growth Minneapolis v. City of Minneapolis*, 954 N.W.2d 584 (Minn. 2021)). On remand, the plaintiffs obtained injunctive relief when the district court determined that the plaintiffs demonstrated the possibility of negative environmental consequences from the city’s upzoning, halting the plan’s implementation. *Id.* at 426. In May 2024, the Minnesota Court of Appeals reversed the injunction. *Id.* at 432–36. Shortly thereafter, the state legislature exempted comprehensive plans from the state’s environmental review law, likely ending the plaintiffs’ challenge. *See* Madison McVan, *Legislature Passes Law Protecting Minneapolis 2040 Plan*, MINN. REFORMER (May 20, 2024), <https://minnesotareformer.com/briefs/legislature-passes-law-protecting-minneapolis-2040-plan> [<https://perma.cc/QLQ9-XKSK>].

107. H.R. 5247, 93d Leg. art. 15, § 26 (Minn. 2024) (codified at MINN. STAT. § 473.145(c) (2024)).

108. *See* Teo Armus, *Alexandria Civic Group Sues City to Preserve Single-Family Neighborhoods*, WASH. POST, Jan. 24, 2024, at B.1; Teo Armus, *Homeowners Sue over Zoning Changes*, WASH. POST, July 8, 2024, at A.1. The Arlington reforms were invalidated by a local judge in October 2024. *See* Dan Egitto, *Missing Middle Developments Halt After Court Decision*, ARLNOW (Oct. 1, 2024), <https://www.arlnow.com/2024/10/01/missing-middle-developments-halt-after-court-decision> [<https://perma.cc/MQZ4-S6JU>].

the ballot, prompting the city council to repeal them.¹⁰⁹ The Gainesville, Florida city council similarly repealed reforms after a citizen backlash.¹¹⁰

2. State Reforms

Whereas some localities have reformed their zoning laws to enable more housing construction, several states have done so by enacting preemptive legislation.¹¹¹ To date, Arizona, California, Colorado, Maine, Massachusetts, Montana, Oregon, Vermont, and Washington have amended their zoning-enabling laws. California,¹¹² Maine,¹¹³ Montana,¹¹⁴ Oregon,¹¹⁵ Vermont,¹¹⁶ and Washington¹¹⁷ now allow middle housing and ADUs by right in residential districts within urbanized areas.¹¹⁸ Arizona now allows ADUs in cities and towns throughout the state¹¹⁹ and requires large cities to allow middle housing near their downtowns.¹²⁰ Colorado now requires local governments to plan and zone for high-density housing near transit stations,¹²¹ preempts minimum parking requirements for multi-family housing,¹²² allows ADUs in urban areas statewide,¹²³ and prohibits local

109. See Rebecca Powell, *Effort to Repeal Land Use Code Has Enough Valid Signatures*, COLORADOAN, Dec. 7, 2023, at A1; Sady Swanson, *Back to the Drawing Board; Fort Collins Considers 33 Changes to Repealed Land Use Code*, COLORADOAN, Aug. 13, 2023, at A1.

110. See Patrick Spauster, *How Backlash Reversed a Florida City's Reforms to Allow Denser Housing*, BLOOMBERG (Feb. 2, 2023), <https://www.bloomberg.com/news/articles/2023-02-02/how-gainesville-s-yimby-zoning-reform-was-undone>.

111. Connolly, *supra* note 3, at 2368; Infranca, *supra* note 7, at 875–76; Sullivan, *supra* note 53, at 496; MANJI ET AL., *supra* note 3, at 14.

112. CAL. GOV'T CODE § 65852.21 (West 2024).

113. ME. STAT. tit. 30-A, §§ 4364-A to -B (2024).

114. MONT. CODE ANN. § 76-2-304 (2023).

115. OR. REV. STAT. § 197A.420 (2023).

116. VT. STAT. ANN. tit. 24, § 4412(D)–(E) (2024).

117. WASH. REV. CODE § 36.70A.635 (2024).

118. See Connolly, *supra* note 3, at 2368–69; *State Preemption of Local Zoning Laws*, *supra* note 3, at 1615; Wolf, *supra* note 68, at 193.

119. ARIZ. REV. STAT. ANN. § 9-461.18 (2024); see also Caitlin Sievers, *Senate Passes Bill to Allow Casitas Across Arizona, Over Objections of Cities Who Say It Goes Too Far*, ARIZ. MIRROR (Mar. 7, 2024), <https://azmirror.com/briefs/senate-passes-bill-to-allow-casitas-across-arizona-over-objections-of-cities-who-say-it-goes-too-far> [<https://perma.cc/E5PF-UAD6>].

120. ARIZ. REV. STAT. ANN. § 9-462.10 (2024); see also *New Arizona Law Overrides Local Zoning to Spur Multifamily Projects*, REAL DEAL (May 24, 2024), <https://therealdeal.com/national/phoenix/2024/05/24/new-arizona-law-overrides-local-zoning-to-spur-housing-projects> [<https://perma.cc/A5L5-LHBG>].

121. COLO. REV. STAT. § 29-37-205 (2024).

122. *Id.* § 29-36-103.

123. *Id.* § 29-35-103.

limitations on unrelated people living together.¹²⁴ Massachusetts requires Boston-area localities to zone areas near transit stations for multi-family housing.¹²⁵ Although most of these reforms apply to market-rate housing, others include bonuses or other incentives for the production of below-market-rate affordable housing.¹²⁶

These state reforms share several commonalities. First, they are preemptive.¹²⁷ They restrict local zoning powers by, for example, prohibiting localities from maintaining single-family zoning districts, or they obligate local governments to undertake certain actions such as zoning areas around transit stations for high-density housing.¹²⁸ Second, these reforms deregulate.¹²⁹ They loosen restrictions on development by allowing greater housing density or more generous dimensional standards.¹³⁰ Third, and relatedly, these reforms tend to streamline or eliminate zoning procedures rather than add to them.¹³¹ This feature of recent reforms contrasts sharply with earlier state-initiated zoning reforms that tended to add, rather than subtract, state review procedures.¹³² States’ preemption of local zoning control parallels expanding state preemption in other areas, such as inclusionary housing and short-term rentals.¹³³

124. *Id.* § 29-20-111; see also Brian J. Connolly, *Colorado Takes a New—and Likely More Effective—Approach to the Housing Crisis*, CONVERSATION (May 24, 2024), <http://theconversation.com/colorado-takes-a-new-and-likely-more-effective-approach-to-the-housing-crisis-230195> [<https://perma.cc/6BLG-JEV2>]; Daniel Herriges, *How Colorado Won Gold in Land-Use Policy Reform*, STRONG TOWNS (May 15, 2024), <https://www.strongtowns.org/journal/2024/5/15/how-colorado-won-gold-in-land-use-policy-reform> [<https://perma.cc/4E6Q-JR5N>].

125. MASS. GEN. LAWS ch. 40A, § 3A (2023); see also *Multi-Family Zoning Requirement for MBTA Communities*, MASS.GOV, <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities> [<https://perma.cc/TB69-R9VT>].

126. Compare, e.g., Schragger, *supra* note 81, at 162, with CAL. GOV’T CODE § 37364 (West 2024). The term “market-rate housing” generally refers to dwellings built without any public subsidy that are sold or rented at prevailing market rates, whereas “below-market-rate” or “affordable” housing refers to dwellings built with public or private subsidy and subject to a deed or other restriction on the sale or rental price of the dwellings. See *Glossary*, HOUS. CAL., <https://www.housingca.org/resources/glossary> [<https://perma.cc/L6ZM-VV5B>].

127. Infranca, *supra* note 7, at 875; Sullivan, *supra* note 53, at 496.

128. See MANJIT ET AL., *supra* note 3, at 15. These reforms’ preemption of local zoning control is remarkable given its longtime position as the exclusive or near-exclusive province of local governments. See Briffault, *supra* note 53, at 112–13; Stahl, *supra* note 46, at 1209.

129. See Anika Singh Lemar, *The Role of States in Liberalizing Land Use Regulations*, 97 N.C. L. REV. 293, 304 (2019).

130. See *supra* notes 117–20.

131. Infranca, *supra* note 7, at 876.

132. See Elmendorf, *supra* note 70, at 82.

133. Infranca, *supra* note 7, at 846–47.

In contrast to local reforms, state reforms tend to originate from or be informed by lobbying by groups with concentrated political power at the state level but less clout in most local jurisdictions.¹³⁴ Whereas local discussions of zoning reform tend to be dominated by residents—particularly homeowners—state-level negotiations provide a forum for other groups interested in reforms, such as affordable housing developers, non-profit housing organizations, and environmental organizations.¹³⁵ These groups are often represented in state discussions by professional lobbyists.¹³⁶ Furthermore, state legislative proceedings have fewer opportunities for public participation. Whereas local ordinances are often adopted at evening public hearings in close physical proximity to residents, opportunities for public comment on state legislation occur in daytime committee hearings in state capitals that can be distant from residents' homes and workplaces.¹³⁷

Like their local counterparts, some state reforms have also faced legal challenges. In 2023, a group of homeowners called Montanans Against Irresponsible Densification sought an injunction against that state's reforms, asserting they violated several federal and state constitutional norms, including rights to equal protection, substantive due process, and freedom of contract.¹³⁸ The state district court temporarily enjoined the implementation of ADU and middle housing reforms.¹³⁹ At the time of writing, that ruling was on interlocutory appeal. In California, five charter cities challenged the state's middle housing law.¹⁴⁰ A state superior court judge enjoined the law's enforcement against these cities, finding that the state failed to establish that the law was reasonably tailored to address the state's need for affordable housing.¹⁴¹ As of this writing, it was anticipated that the state legislature

134. See Lemar, *supra* note 129, at 345–47.

135. See *id.* at 347–48; Herriges, *supra* note 124; ELLICKSON, *supra* note 23, at 147–48.

136. See Lemar, *supra* note 129, at 347–48.

137. See *id.* at 347; ELLICKSON, *supra* note 23, at 148 (noting the physical proximity of city halls to their residents).

138. *Montanans Against Irresponsible Densification, LLC v. State*, 2024 MT 200, ¶¶ 3–4, 418 Mont. 78, 555 P.3d 759 (2024); see also Shaylee Ragar, *Homeowners Group Sues over Montana's New Housing Density Laws*, MONT. PUB. RADIO (Dec. 22, 2023), <https://www.mtpr.org/montana-news/2023-12-22/homeowners-group-sues-over-montanas-new-housing-density-laws> [<https://perma.cc/DUK4-BHCT>].

139. *Montanans Against Irresponsible Densification*, 2024 MT 200, ¶ 7.

140. *City of Redondo Beach v. Bonta*, No. 22STCP01143, 2024 WL 1860434, at *1 (Cal. Super. Ct. Apr. 22, 2024). A charter city is, under California law, a home-rule city with exclusive authority to govern in matters of purely local concern; however, the state retains authority to govern in matters of statewide or mixed concern. See *State Bldg. & Const. Trades Council of Cal. v. City of Vista*, 279 P.3d 1022, 1026–27 (Cal. 2012).

141. *City of Redondo Beach*, 2024 WL 1860434, at *6–9.

would cure the law’s defect by incorporating additional legislative findings of fact in it.

Although the models of land-use decision-making described in Parts II and III describe *local* decision-making, the state-level reforms summarized in this Section are important for two reasons. First, they provide important context for zoning reforms occurring nationwide, as state preemption—or the threat of it—will mandate some local reforms and inform others. And second, the decision-making models described in Parts II and III bear at least some relevance to state-level decision-making, as further explained in Part III.

With this background, the next Part discusses the leading models of zoning decision-making.

II. PREVAILING MODELS OF LAND-USE DECISION-MAKING

Over the past three-quarters of a century, scholars and courts have posited multiple theories on what motivates local officials’ land use and zoning decision-making.¹⁴² This Part introduces and analyzes these theories.

Local voters’ motivations—which in turn affect their elected officials’ decisions—are integral to whether and how localities will reform zoning and thereby address the housing crisis.¹⁴³ Robert Ellickson wrote:

As Madison warned in a famous *Federalist* paper, a small government confronting a single issue is the surest breeding ground for majoritarian oppression. The fewer the voters, the easier it is for a majority to establish a common ground for agreement and to monitor the behavior of elected officials. Likewise, an absence of multiple issues reduces the need for candidates to build coalitions by promising favors to minority interests.¹⁴⁴

Land-use issues dominate local decision-making.¹⁴⁵ Whereas in most places, public schools and other government functions such as fire protection or water utilities are managed by independent entities, land use and zoning are

142. See Been et al., *supra* note 30, at 230.

143. See *id.* at 240.

144. Ellickson, *supra* note 22, at 405 (citing THE FEDERALIST NO. 10, at 53, 60–61 (James Madison) (Mod. Libr. ed., 1941)).

145. See Ellickson, *supra* note 22, at 405–06. This assertion applies to “general-purpose” local governments, such as a city, town, village, borough, township, or county that performs multiple government functions.

some of the only discretionary functions many local governments perform.¹⁴⁶ Thus, local governments' relatively small populations and specific focus on land-use issues make them highly majoritarian and subject to their voters' whims.¹⁴⁷

Scholarly views of public officials' decision-making fall into two broad models.¹⁴⁸ On one hand, the *public interest* model "views officials as personally disinterested agents of the public who are seeking to discern and implement policies that would serve the objective common good."¹⁴⁹ This model holds that individual freedom requires a society to share a set of communal, objective values and offer opportunities for reasoned debate on those values and how to achieve them.¹⁵⁰ Applied to land-use decision-making, the public interest model assumes that localities will, for example, use zoning to further public health (a shared value) by separating incompatible uses to protect residents from noxious odors, noises, or dust.¹⁵¹ Concerning housing, this model might dictate that public officials will encourage affordable housing development because such development is socially beneficial in providing shelter, reducing housing instability, enhancing public health, and encouraging economic growth.¹⁵²

On the other hand, the *public choice* model posits that public officials make self-interested decisions based on, for instance, their desires to be reelected, make money, or achieve higher office.¹⁵³ In this model, local officials respond directly to the motivations of those who elect them, support their campaigns, or offer them opportunities for private-sector

146. See *id.*; Daniel P. Selmi, *Reconsidering the Use of Direct Democracy in Making Land Use Decisions*, 19 UCLA J. ENV'T L. & POL'Y 293, 332 (2002). Other functions performed by general-purpose local governments, such as, for example, budgeting and finance, street and park maintenance, and others are either mandated by state law or routine maintenance obligations. See OLIVER ET AL., *supra* note 37, at 25–26.

147. See Ellickson, *supra* note 22, at 405–06.

148. See Been et al., *supra* note 30, at 230–31.

149. *Id.* at 230; see also Frank I. Michelman, *Political Markets and Community Self-Determination: Competing Judicial Models of Local Government Legitimacy*, 53 IND. L.J. 145, 149 (1977).

150. Michelman, *supra* note 149, at 150.

151. See Been et al., *supra* note 30, at 230; Michelman, *supra* note 149, at 179–80 (observing that separation of incompatible uses to avoid negative impacts on residential areas is a form of public interest decision-making). In early cases, judges recognized this public-interest nature of zoning. Michelman, *supra* note 149, at 179–80.

152. See Neil K. Komisar, *Housing, Zoning, and the Public Interest*, in PUBLIC INTEREST LAW: AN ECONOMIC AND INSTITUTIONAL ANALYSIS 218, 220–21 (Burton A. Weisbrod et al. eds., 2019) (describing the "omniscient dictator" who adheres to a public interest model).

153. See Been et al., *supra* note 30, at 230.

employment.¹⁵⁴ In turn, these officials’ constituents are often driven by self-interest.¹⁵⁵ Thus, where officials desire reelection, their decisions will align with their voters’ self-interest.¹⁵⁶ They may also act in the interest of non-voting parties, including, for example, housing developers that provide campaign donations or other benefits.¹⁵⁷

One of the earliest and most influential local-government public choice theorists was Charles Tiebout.¹⁵⁸ He asserted that, as with markets for consumer goods, consumers—in this case, landowners and renters—choose among local governments’ various and competing packages of taxes and public services.¹⁵⁹ Each consumer will choose where in a region to invest based on his or her preferences, “voting with their feet” by relocating to the jurisdiction that best meets their needs.¹⁶⁰ Local governments, desirous of growth and investment, will respond by meeting residents’ needs.¹⁶¹ Later work by Bruce Hamilton demonstrated that, in a Tieboutian system, local governments can use zoning to restrict entry to avoid new residents overwhelming their packages of taxes and services.¹⁶²

Today, two public-choice theories—Harvey Molotch’s “growth machine” theory and William Fischel’s “homevoter hypothesis”¹⁶³—predominate regarding land-use politics.¹⁶⁴ Each explains why and how local officials may (or may not) embrace population and economic growth and their attendant real-estate development. The remainder of this Part discusses these theories and other models that build on them.

154. *Id.* at 231.

155. See Hankinson, *supra* note 30, at 476 (“While policy attitudes form through many pathways, housing has several traits that may cause voters to weigh support in terms of self-interest.”); William Marble & Clayton Nall, *Where Self-Interest Trumps Ideology: Liberal Homeowners and Local Opposition to Housing Development*, 83 J. POL. 1747, 1761 (2021) (observing that, even among political liberals who might be inclined to support more affordable housing, homeowners tend to oppose new housing in their communities).

156. See Been et al., *supra* note 30, at 230.

157. See *id.* at 231; Ellickson, *supra* note 22, at 407–10.

158. See Daniel A. Lyons, *Public Use, Public Choice, and the Urban Growth Machine: Competing Political Economies of Takings Law*, 42 U. MICH. J.L. REFORM 265, 283 (2009).

159. See Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416, 422 (1956).

160. See *id.* at 418, 422.

161. See *id.* at 418.

162. See Bruce W. Hamilton, *Zoning and Property Taxation in a System of Local Governments*, 12 URB. STUD. 205, 205–06 (1975).

163. See generally Molotch, *supra* note 29; FISCHEL, *supra* note 8.

164. See Been et al., *supra* note 30, at 228–29; Daniel R. Mandelker, *Spot Zoning: New Ideas for an Old Problem*, 48 URB. LAW. 737, 745–46 (2016).

A. The Growth Machine

The growth machine theory holds that local officials will usually make decisions to facilitate economic growth.¹⁶⁵ It assumes landowners' well-being is tied to land values, and local jurisdictions are, at their most basic, agglomerations of immovable land.¹⁶⁶ A rational landowner recognizes the collective gain from growth: if the area surrounding a parcel is growing and increasing in value, that parcel's owner benefits.¹⁶⁷ The welfare of land developers—who tend to own the most land in a given city—is tied directly to land values: they will experience, at least compared to other groups, disproportionate gain or loss from land-use decision-making.¹⁶⁸ Thus, according to Molotch, developers and their allies invest in local politics to ensure that decision-makers perpetuate growth.¹⁶⁹ This relatively small group of wealthy actors comprises the “growth machine”¹⁷⁰ that heavily influences local politics.¹⁷¹

Molotch was concerned that the growth machine subordinates the interests of the broader population, namely the working class, by suppressing socially beneficial objectives such as expanding civil liberties and social welfare.¹⁷² To illustrate this problem, he emphasized the separation between land's *exchange* value and its *use* value.¹⁷³ In Molotch's telling, the growth machine engages in politics to maximize exchange values while undermining use value for other stakeholders, such as residents priced out of unaffordable housing, small businesses that cannot afford rising rents, and workers whose jobs are dislocated.¹⁷⁴ Nevertheless, critiques of the growth machine theory argue that it is impossible to separate exchange and use values, and scholars

165. Molotch, *supra* note 29, at 310.

166. *Id.*

167. *Id.* at 311.

168. *Id.* at 314.

169. *Id.*; see also Ellickson, *supra* note 22, at 407–08; Lyons, *supra* note 158, at 283.

170. Molotch, *supra* note 29, at 317; see also Lyons, *supra* note 158, at 283.

171. Molotch, *supra* note 29, at 314. There is also some evidence that the decline of party politics in U.S. cities resulted in lower voter turnout in local elections, making the growth machine's influence even more powerful. PETERSON, *supra* note 37, at 115.

172. Molotch, *supra* note 29, at 318.

173. See JOHN R. LOGAN & HARVEY L. MOLOTCH, URBAN FORTUNES: THE POLITICAL ECONOMY OF PLACE 1 (1987); Lyons, *supra* note 158, at 285. Exchange value is land's market value, whereas use value means the value of a given parcel of land to its respective users. LOGAN & MOLOTCH, *supra*, at 1–2. The distinction between exchange and use values originates from Marxian economic theory. *Id.* at 1, n.1.

174. LOGAN & MOLOTCH, *supra* note 173, at 32–34.

have further found that antigrowth policies, not the opposite, are to blame for displacement of residents and businesses.¹⁷⁵

Whereas Tiebout assumed perfect information and mobility among residents, Molotch argued that a city’s incumbent residents are usually immobile and lack resources to amass political power, thereby presenting little political risk to officials and making it unlikely that the locality will put residents’ needs over those of wealthy interests.¹⁷⁶ Instead, cities focus on attracting *mobile* residents and firms, providing efficient packages of taxes and public amenities for export industries and wealthy capital.¹⁷⁷ Scholars point to cities’ subsidies for multi-national corporations and sports teams and their use of eminent domain to achieve economic development as evidence of the growth machine at work.¹⁷⁸

Scholars observe that the growth machine, if it exists, prevails in larger jurisdictions like big cities, older suburbs, and maybe even states.¹⁷⁹ Growth machine theory explains zoning politics in growing cities, and there remains evidence of its existence in places that continue to grow.¹⁸⁰ For instance, Robert Ellickson observed that, in recent decades, Austin, Texas, and its fast-growing suburbs were motivated by pro-development interests—including homebuilders and the professionals who serve them—who outnumbered, out-contributed, or outvoted incumbent, anti-growth residents.¹⁸¹ And Daniel Rosenbaum observed that growth machine tendencies exist in *declining* cities, where political pressure to stanch job and population losses results in

175. See Lyons, *supra* note 158, at 293–94 (discussing the challenge of separating use and exchange values); EINSTEIN ET AL., *supra* note 13, at 147; SCHUETZ, *supra* note 52, at 154. See generally Brian J. Asquith et al., *Local Effects of Large New Apartment Buildings in Low-Income Areas*, 105 REV. ECON. & STAT. 359 (2023) (discussing how increasing the housing supply lowers rent in the surrounding area).

176. See Tiebout, *supra* note 159, at 419; Molotch, *supra* note 29, at 322–24 (describing the immobility of labor); Lyons, *supra* note 158, at 285–86; Michael C. Pollack, *Land Use Federalism’s False Choice*, 68 ALA. L. REV. 707, 715 (2017). Richard Schragger nevertheless argues that immobile residents and firms have significant incentive to participate in local politics and push back against exploitation by the growth machine. Richard C. Schragger, *Mobile Capital, Local Economic Regulation, and the Democratic City*, 123 HARV. L. REV. 482, 493–94 (2009).

177. See Molotch, *supra* note 29, at 320–24; Lyons, *supra* note 158, at 285; Schragger, *supra* note 176, at 491–93; David J. Barron & Gerald E. Frug, *Defensive Localism: A View of the Field from the Field*, 21 J.L. & POL. 261, 265 (2005); PETERSON, *supra* note 37, at 22–24.

178. See Schragger, *supra* note 176, at 493; Lyons, *supra* note 158, at 304–06 (referencing Detroit’s condemnation of an ethnic neighborhood to enable General Motors to build a new assembly plant).

179. See Ellickson, *supra* note 22, at 408; Lemar, *supra* note 129, at 345.

180. See Ellickson, *supra* note 1, at 418.

181. See *id.* at 418–19.

decision-making that caters to pro-growth interests.¹⁸² Similarly, at the state level, pro-growth interests can more readily use collective lobbying power to achieve economic development aims while antigrowth interests face stiffer collective action problems.¹⁸³

However, as the remainder of this Part describes, the growth machine cannot explain all local land-use politics.¹⁸⁴ As discussed below, empirical studies show that the power of antigrowth interests has increased in both suburbs and larger cities, suggesting the limits of the growth machine.

B. The Homevoter Hypothesis

1. The Hypothesis

Even Molotch observed that, by the mid-1970s, the growth machine was giving way to antigrowth attitudes in some places.¹⁸⁵ Observing this same trend, Fischel's homevoter hypothesis argued that a different group of elites may be responsible for antigrowth land-use politics.¹⁸⁶ In his account, local decision-makers are most accountable to homeowners because they represent the largest voting bloc in local elections.¹⁸⁷ Because for most homeowners their house is their most valuable asset, and they cannot diversify their investment in it, they are highly motivated to protect and maximize its value.¹⁸⁸ Locational attributes, including "local amenities, public services, and taxes" drive and are "capitalized," or priced, into home values.¹⁸⁹ Homeowners thus use their political influence to ensure the adoption of local policies—including zoning—that produce high-quality services and amenities and low taxes, which in turn prop up home values.¹⁹⁰ Given that homes are immovable and exit is costly, homeowners have an incentive to

182. See Daniel B. Rosenbaum, *Reforming Local Property for an Era of National Decline*, 70 BUFF. L. REV. 1115, 1139–41 (2022).

183. See Lemar, *supra* note 129, at 345.

184. See Selmi, *supra* note 146, at 334.

185. Molotch, *supra* note 29, at 327–28 (describing university towns and some small cities that began to oppose growth as having "a leisured and sophisticated middle class with a tradition of broad-based activism, free from an entrenched machine").

186. See generally FISCHEL, *supra* note 8.

187. See *id.* at 4; see also Ellickson, *supra* note 1, at 415–16; OLIVER ET AL., *supra* note 37, at 69–70; Been et al., *supra* note 30, at 231.

188. FISCHEL, *supra* note 8, at 4, 19, 30; see also Been et al., *supra* note 30, at 232.

189. FISCHEL, *supra* note 8, at 4. Fischel asserts that the market efficiently processes these conditions into home prices, although there is some scholarly debate as to whether he is correct. *Id.* at 46; see also Fennell, *supra* note 26, at 621.

190. FISCHEL, *supra* note 8, at 4.

participate vigorously in their local governments, especially land-use approval processes.¹⁹¹ As the most economically invested and vocal stakeholders in the community, they hold the locality accountable for delivering the most efficient combination of taxes and public services.¹⁹²

Under the homevoter hypothesis, capitalization supplies rational homeowners with multiple reasons to oppose new housing in their communities. First, because new supply can be expected to moderate or reduce price gains, homeowners might rationally cartelize to stop new supply.¹⁹³ Second, because public amenities and services like schools and infrastructure affect home values, homeowners will rationally oppose new development that threatens to congest these goods.¹⁹⁴ And third, the rational homeowner will also be concerned about redistribution. Whereas she seeks efficiency between her tax payments and what she receives in public services, new housing—particularly of the lower-cost variety—means that she may be paying high taxes to support a more service-dependent household that pays less.¹⁹⁵

To Fischel, the homevoter effect is normatively desirable.¹⁹⁶ Homeowners’ concern with property values means they will push their local governments to increase efficiency.¹⁹⁷ This effect is particularly evident in small jurisdictions.¹⁹⁸ Compared to larger places, local policies and decisions in small communities strongly influence property values, and homeowners can more diligently police officials’ activities to encourage maximum efficiency.¹⁹⁹ Countering the argument that homeowner-controlled communities are exclusionary, Fischel offers a handful of examples of socially and racially heterogeneous communities with high-quality public

191. *See id.* at 8–9; *see also* Pollack, *supra* note 176, at 715.

192. FISCHEL, *supra* note 8, at 64.

193. *See id.* at 46, 259; *see also* Trounstone, *supra* note 30, at 301–02; ELLICKSON, *supra* note 23, at 201; Ellickson, *supra* note 22, at 400 (observing that, where new housing supply is limited, another benefit accruing to incumbent homeowners is the ability to upgrade their properties and receive a producer’s surplus).

194. *See* FISCHEL, *supra* note 8, at 230; *see also* Trounstone, *supra* note 30, at 302; Ellickson, *supra* note 22, at 441.

195. *See* FISCHEL, *supra* note 8, at 230; *see also* Trounstone, *supra* note 30, at 302; Ellickson, *supra* note 22, at 441.

196. *See* FISCHEL, *supra* note 8, at 18; *see also* Kenneth Stahl, *The Challenge of Inclusion*, 89 TEMP. L. REV. 487, 498 (2017) (“[E]conomists such as [] Fischel . . . have argued that using zoning to ensure general socioeconomic homogeneity is not only rational but an essential response to the tragedy of the commons.”).

197. FISCHEL, *supra* note 8, at 30.

198. *See id.* at 95.

199. *See id.* at 90–96.

services and commensurately high housing values to demonstrate the benefits of homeowner-controlled local governments.²⁰⁰

Despite being framed as alternatives, the growth machine and homevoter hypothesis share important characteristics.²⁰¹ Both models explain collective efforts to capture local decision-making and inflate land-based wealth.²⁰² Whereas the growth machine coalition urges economic development to increase the land values of large landowners, the homevoter coalition discourages new development to stabilize and increase home values.²⁰³ The extent to which each theory accurately portrays decision-making depends on the local government's structure. For example, a ward voting system in a big city—where individual decision-makers represent relatively small groups of residents—encourages resistance to growth while at-large voting systems tend to support growth.²⁰⁴ Moreover, the availability of a popular initiative and referendum process might also make a jurisdiction more antigrowth.²⁰⁵

Empirical analysis confirms the existence of the homevoter phenomenon.²⁰⁶ Fischel's assertion that homeowners dominate local politics has been corroborated by several scholars.²⁰⁷ For instance, J. Eric Oliver observed that homeownership exceeds both age and education as the most decisive factor in whether someone votes in a local election.²⁰⁸ Andrew Hall and Jesse Yoder showed that local political participation tends to increase once a person becomes a homeowner, especially concerning zoning-related

200. *See id.* at 69–70.

201. *See* Kenneth A. Stahl, *The Artifice of Local Growth Politics: At-Large Elections, Ballot-Box Zoning, and Judicial Review*, 94 MARQ. L. REV. 1, 7 (2010) (describing the debate between the two theories as “based on a false dichotomy”).

202. *See* Schragger, *supra* note 81, at 195–96, 198; OLIVER ET AL., *supra* note 37, at 9 (stating that findings on local elections “call into question the common characterization of local politics as being dominated by propertied elites preoccupied with economic development; rather, it is more appropriate to characterize local politics as being dominated by propertied masses”).

203. Schragger, *supra* note 81, at 198.

204. FISCHEL, *supra* note 8, at 94; *see also* Stahl, *supra* note 201, at 23. *See generally* Evan Mast, *Warding Off Development: Local Control, Housing Supply, and NIMBYs*, 106 REV. ECON. & STAT. 671 (2024) (offering empirical support for this proposition).

205. Stahl, *supra* note 201, at 26.

206. *See* Been et al., *supra* note 30, at 236–37; Biber et al., *supra* note 30, at 28 (summarizing empirical studies). Nonetheless, some scholars have found little connection between homeownership and particular types of growth controls. Gyourko & Molloy, *supra* note 80, at 1307–09.

207. *See* Been et al., *supra* note 30, at 220–23; BABCOCK, *supra* note 45, at 19–20; Ellickson, *supra* note 1, at 415–16.

208. *See* OLIVER ET AL., *supra* note 37, at 70. Homeownership doesn't just affect who votes: according to one survey, 99.5% of people who run for and hold local public office are homeowners and long-term residents of their communities. *See id.* at 98–99.

ballot measures.²⁰⁹ Unlike national elections, which turn on debates over political ideology, candidate characteristics, and distribution of public resources, local elections are frequently influenced by managerial performance and land-use debates, both of which bear on home values.²¹⁰ Outside of elections, homeowners often comprise the majority of commenters on local land-use projects, even where they are a minority of voters.²¹¹

Furthermore, survey data indicate that homeowners are more likely than renters to oppose new housing.²¹² In general, their opposition is strongest the closer new housing is to their homes.²¹³ Opposition to new housing is also strongest in neighborhoods of single-family homes.²¹⁴ Moreover, homeowners strongly dislike dense housing: compared with renters, homeowners exhibit a stronger preference for new single-family homes over apartments.²¹⁵ Homeowners also tend to be more supportive than renters of developing housing on open lands, implying that they are likelier to accept new housing similar to their own homes rather than high-density infill housing that might result in congestion and redistribution.²¹⁶ A study of upzonings in Los Angeles over twelve years indicated that parcels in areas with high homeownership rates are far less likely to be upzoned compared with other parcels in the city.²¹⁷

209. Andrew B. Hall & Jesse Yoder, *Does Homeownership Influence Political Behavior? Evidence from Administrative Data*, 84 J. POL. 351, 357, 361 (2022).

210. See OLIVER ET AL., *supra* note 37, at 8, 31; Ellickson, *supra* note 22, at 405–06; Hall & Yoder, *supra* note 209, at 362 (discussing the potential for zoning-related ballot measures to impact home values). The absence of partisan elections in American localities has been blamed for turning local elections into referenda on the candidates, not the issues. PETERSON, *supra* note 37, at 115–16.

211. See EINSTEIN ET AL., *supra* note 13, at 101; see also OLIVER ET AL., *supra* note 37, at 93 (“[M]any candidates for suburban office get involved in objection to various land developments that threaten the status quo of their communities.”).

212. Hankinson, *supra* note 30, at 480.

213. *Id.* at 480–81.

214. See Gabbe, *supra* note 84, at 295–96; Edward L. Glaeser & Bryce A. Ward, *The Causes and Consequences of Land Use Regulation: Evidence from Greater Boston*, 65 J. URB. ECON. 265, 266–67 (2009).

215. See Trounstone, *supra* note 30, at 301.

216. Elmendorf et al., *supra* note 30, at 25–26. It is possible that homeowners’ preference for greenfield development may also be motivated by aesthetic or ideological preferences. See *id.* at 8–9.

217. Gabbe, *supra* note 84, at 296.

2. Implications of the Hypothesis

If the homevoter hypothesis is correct, it has several implications. First, assuming homeowners rationally desire small municipalities that give them greater control over land use and zoning, the hypothesis explains and predicts municipal fragmentation.²¹⁸ Local land-use control eases homeowners' influence on decision-making.²¹⁹ However, the compound effect of such fragmentation is often a race to the bottom wherein each municipality restricts new housing, increasing demand elsewhere until eventually, the entire regional market undersupplies housing.²²⁰

Second, the hypothesis helps to explain the prevalence of participatory land-use processes. For immobile homeowners, participatory processes are an alternative to exit.²²¹ Indeed, localities design public hearings and other participatory processes to serve homeowners.²²² As Anika Singh Lemar wrote:

Local public participation opportunities are intended to be convenient to homevoters. Lay volunteer boards are appointed to hear land use applications. Zoning hearings are often scheduled at night to accommodate volunteer commissioners and the town residents that might wish to testify on a proposed zoning change or variance. And, by definition, they occur in the town where a resident opposing a project lives.²²³

Third, homeowner dominance in land-use decision-making means local governments will usually restrict new development and population diversity.²²⁴ Empirical analysis indicates that smaller jurisdictions, which are more susceptible to homeowner capture, have stricter zoning than larger

218. See FISCHEL, *supra* note 8, at 212–13, 221–22 (observing that homeowners generally desire to live in smaller jurisdictions).

219. See Pollack, *supra* note 176, at 714–15. Nevertheless, at least one article suggests homeowners might support more regional governance mechanisms if they enhance property values. See Barron & Frug, *supra* note 177, at 268.

220. See Biber et al., *supra* note 30, at 26–27 (“But in a metropolitan area with highly fragmented local governments, if there are a lot of small jurisdictions, their decisions in the aggregate may have a major impact.”). But see Ellickson, *supra* note 22, at 402–03, 409 (asserting that restrictions on supply in one municipality increase demand elsewhere, but arguing that even though some municipalities in a given metropolitan area may be exclusionary, not all will be).

221. See Pollack, *supra* note 176, at 716; Roderick M. Hills, Jr. & David Schleicher, *Planning an Affordable City*, 101 IOWA L. REV. 91, 105 (2015).

222. Lemar, *supra* note 129, at 347.

223. *Id.*

224. See Been et al., *supra* note 30, at 232–34 (describing the implications of the homevoter hypothesis).

jurisdictions.²²⁵ In a small jurisdiction, new development will likely personally affect a higher proportion of community residents.²²⁶ At the homeowners’ behest, these places will thus employ restrictive zoning to delay or stop development.²²⁷ For uses with environmental justice consequences, such as landfills, factories, or mines, or other unwanted uses like multi-family housing, homeowner-dominated jurisdictions often push these uses to other, poorer communities.²²⁸ Homeowner-dominated localities may also use “fiscal zoning,” excluding lower-income or service-dependent households, to maintain low property taxes and high-quality public services.²²⁹ By doing so, they effectively zone out racial and ethnic minority residents.²³⁰ Even where a locality allows more affordable housing, it may impose development charges to offset the higher cost of serving such a project and its residents, benefiting incumbent homeowners at future residents’ expense.²³¹

Restricting development, particularly of affordable forms of housing, has distributional consequences that will expand over time. A home’s value is, effectively, the price of entry for a given community and its public amenities.²³² Whether a household can pay that price of entry dictates its access to high-quality public services, such as schools.²³³ In many places, lower-income households cannot afford this price of entry. Because homeowners tend to be wealthier, older, white, and married, they may compound this problem by encouraging local decision-makers to enact policies that make their communities even more off-limits to younger, more

225. See Biber et al., *supra* note 30, at 34–35 (citing studies showing that small jurisdictions produce little housing).

226. See OLIVER ET AL., *supra* note 37, at 159.

227. In these cases, developers have few means of legal recourse. See FISCHER, *supra* note 8, at 16, 273–74 (describing the shortage of meaningful judicial remedies for developers and the power of delay in opposition to new development). *But see* Stahl, *supra* note 57, at 954 (asserting that courts are more protective of developer reliance interests due to the fact that political processes are largely designed around protecting homeowner interests).

228. See Lee Anne Fennell & Julie A. Roin, *Controlling Residential Stakes*, 77 U. CHI. L. REV. 143, 151 (2010).

229. See Been et al., *supra* note 30, at 232. “Fiscal zoning” generally refers to zoning actions that are taken for the purpose of preserving low taxes by, for instance, prohibiting the entry of high-cost uses into the community. In the non-residential context, fiscal zoning might include prohibiting an industrial use that creates excessive truck traffic and requires street upgrades. In the residential context, it means excluding residents who might have high service costs but low tax contributions. *See id.*

230. *See id.* at 233.

231. See FISCHER, *supra* note 8, at 277–78 (suggesting development exactions as an economically efficient means of offsetting the costs of new development on a surrounding community); Ellickson, *supra* note 22, at 400.

232. Schragger, *supra* note 43, at 1834–35.

233. *See id.* at 1834.

diverse households.²³⁴ Furthermore, even if homeowners don't care about good public services, they benefit from them through elevated home values.²³⁵ For example, a wealthy empty-nester couple that owns a large home in a good school district benefits from the district's quality while depriving a less-wealthy family with children the ability to live in the same home and use the district's schools. Thus, whereas Tiebout suggested that people would sort into communities based on consumer preferences, the implication of the homevoter hypothesis is that sorting instead occurs along wealth lines.²³⁶ Where small municipalities employ zoning to maintain large lots and homes, they exclude poor people and effectively give wealthy homeowners a collective property right to exclude.²³⁷

Fifth and finally, the hypothesis implies that reforms to increase housing supply may be more successful at higher levels of government.²³⁸ Fewer participation opportunities and greater collective-action challenges in organizing disparate antigrowth groups make homeowners less likely to participate in state legislative affairs.²³⁹ Conversely, pro-development interests have better access to state-level lobbyists and participation opportunities.²⁴⁰

3. Critiques and Limitations of the Hypothesis

Scholarly critiques of the homevoter hypothesis fall into three categories. The first relates to capitalization and its components. Whether and to what extent public amenities and services are fully capitalized into home values remains debatable, as does the extent to which other considerations affect them.²⁴¹ Notably, Fischel omits significant discussion of race's impact on

234. See Fennell, *supra* note 26, at 626–28.

235. See *id.* at 638.

236. *Id.*

237. See Stahl, *supra* note 196, at 496–97.

238. See Been et al., *supra* note 30, at 240 (“If the evidence supports the theory that homevoters’ risk aversion usually wins out in local land-use decisions even in urban areas, for example, that finding would add weight to calls for shifting authority to higher levels of government or regional bodies, imposing financial sticks, providing home-value insurance, or forcing local governments to adhere to comprehensive plans or targets . . .” (footnote omitted)).

239. See Lemar, *supra* note 129, at 347–48.

240. *Id.*

241. See Schragger, *supra* note 43, at 1830; Mandelker, *supra* note 164, at 747–48. For instance, capitalization may be more apparent in largely built-out, no- or slow-growth places. See Schragger, *supra* note 43, at 1830. Conversely, home values in a fast-growing suburb may not be impacted by new development, as the jurisdiction's growth and expansion of its public services are already priced into home values. See *id.*

home values in his account of homeowner behavior.²⁴² There is evidence that the racial makeup of a community may directly affect home values.²⁴³ For instance, a 2001 study concluded that, controlling for other variables, racially segregated Black neighborhoods had lower home values than other comparable neighborhoods.²⁴⁴ Cross-subsidies’ effect compounds this problem. If home values are maximized when owners receive a good return (in the form of public services and amenities) on their property tax payments, then cross-subsidizing lower-income, high-cost residents—such as people living in smaller, more affordable homes, households that avail themselves of social services, or families with more children in public schools—will reduce home values.²⁴⁵ Moreover, whether or not home values are actually influenced by race, cross-subsidization, or public services and amenities, capitalization incentivizes homeowners to act based on what they *think* future buyers care about.²⁴⁶ Whereas most potential buyers might not oppose apartments or racial minority residents in a community, a rational homeowner might still endeavor to broaden her community’s appeal to the least tolerant potential buyer by advocating against more affordable forms of housing, which in turn results in excluding unwanted people.²⁴⁷

Second, the homevoter hypothesis does not fully account for externalities, as the decisions of one jurisdiction often affect others.²⁴⁸ For example, if a small locality has large parks and a populous adjacent jurisdiction does not, residents of the bigger city might overwhelm the small locality’s parks and diminish its home values. Jurisdictions can shift costs to neighboring communities, too: if one locality does not allow new housing, the entire region could suffer negative economic consequences from a lack of affordable housing.²⁴⁹

242. See Schragger, *supra* note 43, at 1836.

243. See Fennell, *supra* note 26, at 643–45.

244. DAVID RUSK, BROOKINGS INST. CTR. ON URB. & METRO. POL’Y, THE “SEGREGATION TAX”: THE COST OF RACIAL SEGREGATION TO BLACK HOMEOWNERS 4 (2001), <https://www.brookings.edu/wp-content/uploads/2016/06/rusk.pdf> [<https://perma.cc/7VRW-NT6Q>]; see also Schragger, *supra* note 43, at 1837 (observing that home values are influenced by segregation).

245. See Schragger, *supra* note 43, at 1837.

246. Fennell, *supra* note 26, at 646–47.

247. See *id.* at 647–48.

248. Schragger, *supra* note 43, at 1831; Fennell, *supra* note 26, at 652–53; see also Biber et al., *supra* note 30, at 28–29.

249. Cf. Ellickson, *supra* note 22, at 400 (describing the converse—that with sufficient substitutes, one jurisdiction’s limit on housing production might not affect housing prices in the region).

Third, it is unclear whether homeowners care about maximizing home values to the extent Fischel asserts. For some homeowners, racism or classism might outweigh a purely economic interest in home values.²⁵⁰ For example, although a neighborhood transit stop increases property values, homeowners sometimes oppose new transit stops out of fears about transit users.²⁵¹ In other cases, homeowners may not understand the economic impact of public investments or real estate projects, opposing them on aesthetic or other grounds.²⁵² Development opposition might also be driven by political ideology or antipathy toward the fact that developers make money on their projects.²⁵³ This critique's validity might be most clearly borne out of the fact that, despite Fischel's suggestion that programs of home-value insurance might mitigate homeowner opposition to new development, few jurisdictions have adopted such programs.²⁵⁴

4. Applicability of the Hypothesis

The homevoter hypothesis most closely describes decision-making in small, suburban jurisdictions.²⁵⁵ Political debates in large, demographically and economically heterogeneous places tend not to center on the single issues—such as specific real estate development projects—that dominate discourse in smaller communities.²⁵⁶ The homevoter effect *is* exaggerated in

250. See Monkkonen & Manville, *supra* note 34, at 1124–25; Schragger, *supra* note 43, at 1833–34; see ELLICKSON, *supra* note 23, at 194–96; RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* 53 (2017).

251. See Sarah Schindler, *Architectural Exclusion: Discrimination and Segregation Through Physical Design of the Built Environment*, 124 YALE L.J. 1934, 1962 (2015) (citing Jason Henderson, *Secessionist Automobility: Racism, Anti-Urbanism, and the Politics of Automobility in Atlanta, Georgia*, 30 INT'L J. URB. & REG'L. RSCH. 293, 299–300 (2006)); Catherine L. Ross & Nancey Green Leigh, *Planning, Urban Revitalization, and the Inner City: An Exploration of Structural Racism*, 14 J. PLAN. LITERATURE 367, 376–77 (2000); Lior Jacob Strahilevitz, *Exclusionary Amenities in Residential Communities*, 92 VA. L. REV. 437, 488 n.163 (2006).

252. See Schragger, *supra* note 43, at 1834.

253. See Monkkonen & Manville, *supra* note 34, at 1124–25.

254. See FISCHEL, *supra* note 8, at 269 (proposing a system of home-value insurance); Fennell & Roin, *supra* note 228, at 156–57 (describing home-value insurance programs as having “not attracted widespread participation.”); see also Fennell, *supra* note 26, at 656 (observing that, for an antidevelopment homeowner, “the offer of development coupled with insurance is likely to sound about as attractive as an offer of fire insurance from someone who proposes to operate a blowtorch in one’s living room.”).

255. Been et al., *supra* note 30, at 231–32 (explaining applicability of the homevoter hypothesis to small jurisdictions); see FISCHEL, *supra* note 8, at 3–8, 90–92; see also Hills & Schleicher, *supra* note 221, at 107.

256. OLIVER ET AL., *supra* note 37, at 17–18, 40.

smaller jurisdictions: small-town residents vote at higher rates, typically because they are more familiar with local issues and leaders.²⁵⁷ Because each homeowner in a small locality has a greater share of the overall vote than a big-city resident, they more readily influence taxes, public services, and zoning.²⁵⁸ As discussed *supra*, many suburbs incorporated as separate municipalities to block annexations by central cities, concentrate land-use power, and avoid population heterogeneity.²⁵⁹ Unsurprisingly, small localities generally approve fewer new housing units.²⁶⁰

Nevertheless, the homevoter hypothesis may also explain antigrowth trends in big cities, particularly those with decentralized governance such as ward voting.²⁶¹ Several authors have observed that large cities have increasingly restrictive land-use regulations.²⁶² In 2014, Vicki Been, Josiah Madar, and Simon McDonnell empirically tested the applicability of the homevoter hypothesis using data on New York City rezonings between 2002 and 2009; they found higher homeownership rates increased the likelihood of downzoning.²⁶³ Thus, even in a majority-renter city, officials “pay[] considerable attention to the interests of homeowners.”²⁶⁴

Subsequent work by Michael Hankinson found that the antigrowth attitudes usually attributable to homeowners extended to renters in San Francisco, a high-cost city; they were even more averse than homeowners to new developments in their neighborhoods.²⁶⁵ Been suggests that urban renters may oppose new development out of fear that it will portend rent increases and housing instability.²⁶⁶ As these renters compete with one another for a limited supply of available housing, new, high-rent buildings may symbolize gentrification and signal neighborhood undervaluation to investors.²⁶⁷ Thus, renters’ skepticism that new housing will moderate rents motivates them to oppose new development.²⁶⁸ Renter opposition to new housing is just another

257. *Id.* at 19.

258. See FISCHER, *supra* note 8, at 220–21.

259. OLIVER ET AL., *supra* note 37, at 201.

260. Biber et al., *supra* note 30, at 34–35.

261. See FISCHER, *supra* note 8, at 93–94.

262. See, e.g., Been et al., *supra* note 30, at 229; Hankinson, *supra* note 30, at 473; Glaeser et al., *supra* note 20, at 331–33; Schleicher, *supra* note 72, at 1675; Hills & Schleicher, *supra* note 221, at 93.

263. Been et al., *supra* note 30, at 241, 257. The authors also found that, in neighborhoods with higher proportions of white residents, a similar trend toward downzoning existed. *Id.* at 258.

264. Been et al., *supra* note 30, at 259.

265. Hankinson, *supra* note 30, at 477–78.

266. Been, *supra* note 31, at 243.

267. Hankinson, *supra* note 30, at 476; see also Been, *supra* note 31, at 238–40, 243.

268. Been, *supra* note 31, at 243–44.

version of the homevoter phenomenon, as it is premised on self-interest and protection of incumbent residents' welfare.²⁶⁹

C. Other Models

Other authors have built upon the foregoing models, contributing to the collective understanding of how localities' institutional design influences development attitudes and the durability of single-family zoning.

1. Institutional Design: Reinforcing Collective-Action Problems

Roderick Hills, Jr., and David Schleicher observed local governments' structure and procedures' role in determining a locality's pro- or antigrowth orientation.²⁷⁰ In their view, two particular features of local governments push them to oppose growth: the seriatim nature of land-use decisions and local governments' lack of organized political parties.²⁷¹

First, as discussed in Part I, in most places, zoning changes occur on a parcel-by-parcel basis, following either a developer's application for relief from existing restrictions or a neighborhood's request to restrict new development.²⁷² These changes generally occur at noticed public hearings where community members have an opportunity to share their concerns or position on a given action.²⁷³

269. *Id.* at 245–46. Notably, the political economy literature about homeowners' and renters' attitudes about development is devoid of any in-depth treatment of *owners* of units in multi-family, for-sale developments like condominiums. Owner-occupied condominium units represent a very small share of all owner-occupied housing in the United States. See ALEX RAMILLER ET AL., FED. RES. BANK S.F., HOMEOWNERSHIP OPPORTUNITIES BEYOND SINGLE-FAMILY: QUANTIFYING THE CURRENT LANDSCAPE 13 (2024), <https://www.frbsf.org/wp-content/uploads/homeownership-opportunities-beyond-single-family-cdrb2024-03.pdf> [<https://perma.cc/MC3N-38MH>]. The prevalence of this ownership varies state-to-state and place-to-place, however, meaning that condominium unit owners likely do not comprise a significant bloc in many places. See *id.* at 14–16. Because of the lack of literature on them, the development preferences of condominium unit owners are relatively unknown. One could easily surmise that condominium unit owners have some of the same motivations as single-family detached homeowners concerning overall housing supply and congestion of public goods. However, they may also support denser, walkable urban neighborhoods to the extent these amenities increase their unit values.

270. Hills & Schleicher, *supra* note 32, at 87.

271. *Id.* at 89, 92–93, 97, 102.

272. *Id.* at 83–86; see also Carol M. Rose, *Planning and Dealing: Piecemeal Land Controls as Problem of Local Legitimacy*, 71 CALIF. L. REV. 837, 841 (1983) (describing the “piecemeal” nature of changes to zoning regulations).

273. Lemar, *supra* note 68, at 1090–91.

This serial, geographically concentrated manner of decision-making affects how supporters and opponents of new development organize themselves.²⁷⁴ As Hills and Schleicher summarized:

A new apartment building, for instance, provides benefits to consumers of housing, both buyers and renters, as prices will fall and quality will rise if supply is allowed to match demand, particularly in the specific locations desired by those consumers. But any proposed project will only provide small benefits to each prospective consumer of housing, as each new apartment or house will only have a marginal effect on the price. By contrast, there is usually a class of geographically concentrated residents who will be made substantially worse off. Homeowners in the neighborhood of a development may see fewer scenic views, increased shadow, more traffic and less parking, more children in their school’s catchment area, or simply more people when they would rather see fewer. More importantly, they will see more competition for buyers and renters of housing, as the amount of homes in their neighborhood—which, for most homeowners, is their largest asset by a huge margin—becomes less scarce.²⁷⁵

A small group opposing a given development application faces far lower collective action barriers than a large, dispersed group of supporters.²⁷⁶ The opposition, usually homeowners, are physically proximate to one another, share a common interest in protecting home values, have enemies in the developer and unknown prospective users of the new project, and will most acutely experience geographically concentrated harms.²⁷⁷

Meanwhile, prospective supporters, including housing consumers or developers, lack these organizational attributes.²⁷⁸ They may be geographically dispersed.²⁷⁹ They also have varying interests in new housing construction, and the individual benefits to each supporter of constructing a housing project are only incremental.²⁸⁰ Compounding this problem, in most

274. See Lemar, *supra* note 129, at 347 (describing the difference between parcel-specific and citywide zoning changes).

275. Hills & Schleicher, *supra* note 32, at 90–91.

276. *Id.* at 92; MANCUR OLSON, *THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS* 33–36 (1971).

277. Hills & Schleicher, *supra* note 32, at 92; Hankinson, *supra* note 30, at 473; Lemar, *supra* note 129, at 347. The notion that people are more likely to oppose development nearest to their homes has been empirically demonstrated. See Monkkonen & Manville, *supra* note 34, at 1131–36.

278. Hills & Schleicher, *supra* note 32, at 92.

279. *Id.*

280. *Id.* at 91–93.

communities, only owners whose property is near a prospective project receive notice of the proposal, whereas others receive none.²⁸¹ It is therefore unsurprising that local boards are often more responsive to opponents of new development.²⁸²

Second, Hills and Schleicher observe that local governments commonly have non-partisan elections. They assert that political parties are “the traditional antidote for concentrated interest groups.”²⁸³ In systems with strong political parties, the parties set platforms and agendas, and party leadership whips legislators to ensure that they adhere to the party’s position.²⁸⁴ Political parties aid voters in holding elected officials accountable, as party leadership polices members’ votes.²⁸⁵ But because local governments lack strong political parties, policymaking instead falls victim to “cycling,” where individual legislators propose uncoordinated legislation.²⁸⁶ Meanwhile, voters cannot police all of their representatives’ votes; candidates for local office thus regularly run on incumbency alone and elections are decided on idiosyncratic issues such as specific land-use projects.²⁸⁷

For real estate development, the absence of party politics means that local legislatures frequently default to systems of aldermanic privilege or logrolling.²⁸⁸ A prisoner’s dilemma occurs where, even if a given ward councilor might otherwise accept some development in her district, she will oppose it because she expects other councilors will oppose new development in their districts.²⁸⁹ Similarly, the aldermanic privilege system provides that legislators will defer to a given ward’s representative on issues specific to her

281. Lemar, *supra* note 68, at 1130–31. Put simply, those most likely to oppose a project are invited to participate in a public hearing, while others are not. *Id.* Despite their questionable value in the local land-use approval process and the exclusionary nature of their noticing, Michael Pollack observes that local public hearings serve an important role in preserving the legitimacy of local governments and their land-use decisions. Pollack, *supra* note 176, at 717–18.

282. Lemar, *supra* note 129, at 347; Kazis, *supra* note 38, at 2344–45; ELLICKSON, *supra* note 23, at 131–32; Rose, *supra* note 272, at 856–57.

283. Hills & Schleicher, *supra* note 32, at 97.

284. *Id.* at 98.

285. *Id.* at 98–99.

286. PETERSON, *supra* note 37, at 114–15 (observing that, by 1981, more than seventy percent of U.S. cities with a population greater than 25,000 had nonpartisan elections); Hills & Schleicher, *supra* note 32, at 97.

287. See Hills & Schleicher, *supra* note 32, at 98–100; see also PETERSON, *supra* note 37, at 115; OLIVER ET AL., *supra* note 37, at 152.

288. See Hills & Schleicher, *supra* note 32, at 102. The term “logrolling” refers to the trading of favors to pass legislation that is supported by individual members of the legislative body.

289. *Id.* at 102–03.

ward.²⁹⁰ As the ward councilor elected by a predominantly homeowners electorate, she will honor her constituents’ antigrowth attitudes, and the entire legislature will go along with her.²⁹¹

As an alternative to this system, Hills and Schleicher propose a “zoning budget” requirement, wherein elected bodies must counter downzoning with a commensurate upzoning of other property.²⁹² In their view, such a design would mitigate the race-to-the-bottom problems of serial decision-making and non-partisan local government.²⁹³

2. The Zoning Straitjacket

Robert Ellickson’s work on single-family zoning adds additional theories for zoning decision-making.²⁹⁴ Once land is zoned for single-family housing, its designation virtually never changes.²⁹⁵ Ellickson attributed the unchanging nature of single-family zoning to three factors that motivate opponents of growth, specifically homeowners: status quo bias, patterns of social esteem, and norms of distributive justice surrounding the benefits of new development.²⁹⁶

Concerning status quo bias, Ellickson points to a human psychological tendency against change and in favor of the familiar.²⁹⁷ Despite the potential benefits of a new development project, incumbent residents’ natural bias against the unknown dictates that they will weigh its prospective costs more heavily.²⁹⁸ Ellickson uses status quo bias to explain many other land-use practices, including nonconforming use protections, historic preservation, and zoning’s orientation around protecting community character.²⁹⁹ He notes that longer periods of homeownership increase opposition to new development.³⁰⁰ Regarding social esteem and disesteem, Ellickson observes that social ties among neighbors likely result in the formation of opposition

290. Schleicher, *supra* note 72, at 1710–11.

291. *Id.*; see also Hills & Schleicher, *supra* note 32, at 102–03.

292. Hills & Schleicher, *supra* note 32, at 124–25.

293. See *id.* at 132–33.

294. Ellickson, *supra* note 1.

295. *Id.* at 401.

296. *Id.* at 420–26. Ellickson also observes that these forces do not just apply to wealthy, white communities; lower-income and racial minority-dominated single-family neighborhoods have exhibited the same straitjacket tendencies. See ELLICKSON, *supra* note 23, at 130–31.

297. Ellickson, *supra* note 1, at 420.

298. See *id.* at 421.

299. *Id.* at 421–22.

300. *Id.* at 423.

groups, as vocal opponents of new development draw less-vocal neighbors into the opposition fray.³⁰¹ Neighbors who might otherwise support upzoning may choose against doing so publicly, for fear of alienating other neighbors and becoming socially outcast.³⁰²

Finally, concerning distributive justice, Ellickson notes that opposition to upzoning may result from anti-developer animus.³⁰³ Ellickson posits that this animus alone results in developers choosing sites further away from established neighborhoods, which contributes to sprawl and avoids infill development.³⁰⁴ There is empirical support for this position. Paavo Monkkonen and Michael Manville found, based on surveys, that when informed of a developer's profit from a new project, people tend to oppose the project.³⁰⁵ They attribute anti-developer views to widespread mistrust of businesspeople, perceptions that developers bend rules to get permission to build projects, and moral objections to developers profiting off of a basic human need like housing.³⁰⁶ They found that development proposals attract more support where the developer voluntarily promises benefits—including additional parking, a donation to the local school, and streetscape improvements—to the community, thus sharing some of their profit from new development.³⁰⁷ This analysis is buttressed by the survey work of Christopher Elmendorf, Clayton Nall, and Stan Oklobdzija, which found that the public generally blames developers and landlords for high housing costs rather than acknowledging that housing undersupply is responsible for high prices.³⁰⁸

D. Conclusion

The foregoing review of existing political economy models underscores the uphill battle faced by reformers who wish to amend zoning laws to allow more housing development. Where the growth machine theory holds, it may be possible that communities will support new housing, if not affordable housing. Nevertheless, evidence strongly suggests that the homevoter theory has prevailed in most American suburbs and even some big cities. Multiple

301. *Id.* at 425.

302. *See id.*

303. *Id.* at 425–26.

304. *Id.*

305. Monkkonen & Manville, *supra* note 34, at 1133.

306. *Id.* at 1127–29.

307. *See id.* at 1135–6.

308. Elmendorf et al., *supra* note 30, at 10.

forces, from homeowners’ interest in maintaining or increasing their home values to the institutional design of local governments’ land-use decision-making, suggest that local officials will err on the side of prohibiting, rather than enabling, new housing construction. These models paint a bleak picture and suggest that localities’ political unwillingness or inability to approve additional housing construction will impede efforts to address the housing crisis. Yet, many local governments have independently reformed their zoning laws to allow more housing construction. The next Part attempts to explain why this is occurring.

III. TOWARD A DECISION-MAKING MODEL FOR YIMBY REFORMS

If the decision-making models identified in Part II held, local zoning reforms to expand housing supply seem exceedingly unlikely, if not impossible. Consider, for instance, a city like Boise, Idaho. In Boise, nearly seventy percent of the population resides in owner-occupied housing.³⁰⁹ One might expect Boise to be a characteristically homevoter-dominated place that generally rejects new housing. But in 2023, Boise’s city council unanimously adopted reforms allowing ADUs, middle housing, and new apartments throughout the city.³¹⁰ Sixty other cities have done the same.³¹¹ This Part explains why some places have adopted reforms, offering five hypotheses.

The hypotheses explaining reforms’ adoption discussed in this Part include: (1) a possible reemergence of the business-oriented growth machine as a driver of recent reforms; (2) the potential for pro-housing homevoters, particularly in places where home values or quality of life may be negatively impacted by the housing crisis; (3) the likelihood of increasing political power among renters, particularly those who have delayed or been priced out of homeownership; (4) an easier path for pro-housing advocates to build coalitions and garner support; and (5) the influence of public-interest decision-making in reform jurisdictions.

309. 2022 *American Community Survey Five-Year Estimates, Table B25008, Total Population in Occupied Housing Units by Tenure*, U.S. CENSUS BUREAU, <https://data.census.gov/table/ACSDT1Y2022.B25008?t=Housing&g=160XX00US1608830&y=2022> [https://perma.cc/ZA26-FEXL] [hereinafter *Table B25008*].

310. See Margaret Carmel, *Boise’s Future: Council Unanimously Adopts Zoning Code Revamp, with Changes: “A Home . . . Is Fundamental,”* BOISEDEV (June 16, 2023), <https://boisedev.com/news/2023/06/15/boise-zoning-rewrite-passes> [https://perma.cc/4H2B-43EA].

311. See Cantong et al., *supra* note 2.

A. The Resurgence of the Growth Machine

The first possible explanation for local pro-housing reform is that the growth machine, which took a backseat to the homevoter coalition in recent decades, has reemerged in reform jurisdictions. Ellickson observed that in the fast-growth suburbs of Austin, Texas, the growth machine facilitates new housing development:

Homebuilders obviously have a huge stake in zoning policy. But a wide variety of other specialists also profit from increased housing supply: construction workers; subcontractors; civil engineers; real estate brokers; real estate attorneys; mortgage lenders; owners and employees of restaurants, furniture stores, moving companies; and on and on.³¹²

Fast-growth cities have housing-production-dependent workers whose livelihoods depend on growth.³¹³ Compared with slow-growth areas, these workers comprise a higher share of the electorate in fast-growth places, thus giving them greater political influence.³¹⁴ Yet many reform jurisdictions are not growing as rapidly as Austin's suburbs.

Whether the growth machine is driving present-day reforms can be divined from the degree to which large developers participate in their adoption and the extent to which the reforms serve real estate business's needs. For instance, the growth machine's influence could be evidenced by real estate developers' and allied professionals' (including lawyers, architects, engineers, and others) public or private support for reforms.³¹⁵ Such support could include developers' and their allies' public testimony in favor of reforms or their organizing of coalitions. Or it might feature campaign contributions, lobbying activities, or the growth machine's provision of financial or technical support to pro-growth coalitions.³¹⁶ Real estate developers and their allies might also hold seats on local city councils or planning commissions.³¹⁷

Similarly, if the growth machine influenced reforms, those reforms would presumably permit—or at least ease the building of—housing that is usually

312. Ellickson, *supra* note 1, at 418. Although it's used as an example here, in Austin, the growth machine's existence may not be as much of a resurgence as a continuation; Ellickson observes that Texas has long adhered to pro-growth policies due to statewide influence of real estate development interests. *See id.* at 408.

313. *See id.* at 418.

314. *See id.*

315. *See* Molotch, *supra* note 29, at 314.

316. *See* LOGAN & MOLOTCH, *supra* note 173, at 62–63.

317. *See id.* at 66.

built by large, professional real estate developers. Such housing generally includes tract single-family homes or large apartment buildings, which are financed by institutional equity firms.³¹⁸ Growth machine-supported reforms would also presumptively limit conditions on new development like inclusionary zoning or limitations on design and density.³¹⁹

Against this backdrop, it does not appear the growth machine is driving recent reforms. ADUs and middle housing, the predominant subjects of most recent reforms, lack the economies of scale attendant to large tract housing or apartment projects and generate paltrier returns.³²⁰ They are not typically built by major developers or with institutional financing partners.³²¹ Instead, they are constructed by smaller, local builders with financing from non-institutional sources of equity and local banks.³²² They present a myriad of structural challenges, including their poor scalability, slow pace of development, limited appeal to financing partners, and the absence of a mature middle housing building industry.³²³ Although small developers and their allies could support middle housing reforms, the big-business growth machine seems unlikely to do so.³²⁴

318. See, e.g., DAVID GARCIA ET AL., TERNER CTR. FOR HOUS. INNOVATION AT UC BERKELEY, UNLOCKING THE POTENTIAL OF MISSING MIDDLE HOUSING 9 (2022), <https://turnercenter.berkeley.edu/wp-content/uploads/2022/12/Missing-Middle-Brief-December-2022.pdf> [<https://perma.cc/3B3S-9MYN>]; Christopher S. Elmendorf & Clayton Nall, *Plain-Bagel Streamlining? Notes from the California Housing Wars*, CASE W. RES. L. REV. (forthcoming 2025) (manuscript at 6), <https://papers.ssrn.com/abstract=4811580> [<https://perma.cc/W4FZ-QJUD>]; Schuetz & Hoyt, *supra* note 66; Gopal Ahluwalia et al., *Concentration in Homebuilding Driven by a Few Large Builders*, JOINT CTR. FOR HOUS. STUD. OF HARV. UNIV. (Apr. 19, 2022), <https://www.jchs.harvard.edu/blog/concentration-homebuilding-driven-few-large-builders> [<https://perma.cc/PN2Y-6T8C>].

319. See Schuetz & Hoyt, *supra* note 66. “Inclusionary zoning” refers to requirements that builders set aside a certain percentage of new units as income-restricted. *Inclusionary Zoning*, POLICYLINK, <https://www.policylink.org/resources-tools/tools/all-in-cities/housing-anti-displacement/inclusionary-zoning> [<https://perma.cc/N3GM-M3AS>].

320. See, e.g., Connolly, *supra* note 3, at 2386–87, 2390–91; Molloy, *supra* note 21, at 2; Ahluwalia et al., *supra* note 318; DANIEL PAROLEK, MISSING MIDDLE HOUSING: THINKING BIG AND BUILDING SMALL TO RESPOND TO TODAY’S HOUSING CRISIS 81 (2020); PETER HENDEE BROWN, HOW REAL ESTATE DEVELOPERS THINK: DESIGN, PROFITS, AND COMMUNITY 194–95 (2015).

321. See Connolly, *supra* note 3, at 2389–91; GARCIA ET AL., *supra* note 318, at 14; PAROLEK, *supra* note 320, at 80.

322. See Connolly, *supra* note 3, at 2390–91.

323. See *id.* at 2386–93.

324. Notably, some recent reforms have allowed larger apartment buildings or reduced permitting hurdles for these buildings, resulting in the construction of many housing units in larger apartment buildings. See Liang et al., *supra* note 27; Audrey McGlinchy, *Austin Policy Lets Builders Forgo Red Tape. The Result? More Affordable Housing, Less Public Input*, AUSTIN

This conclusion is seemingly supported by the experience of reform jurisdictions. For instance, in Minneapolis, real estate developers were not uniformly in favor of the proposal to modify single-family zoning, as many of them enjoy a competitive advantage under restrictive zoning conditions.³²⁵ In Boise, participants in the city's zoning reforms indicated that real estate developers were not publicly or privately involved.³²⁶ In most cases, it appears zoning reform supporters vary widely from community to community, frequently including engaged citizens and advocacy organizations.³²⁷ Nevertheless, in some limited cases, apartment developers may support YIMBY groups and other reformers to the extent their efforts will ease regulatory burdens on new multifamily housing.³²⁸

Although further investigation into the growth machine's involvement in reforms is needed, it appears from an initial review that the growth machine is not behind most recent pro-housing reforms.

B. Capitalization Comes for Exclusionary Zoning

Second, it is possible that the same forces that drive NIMBYism—namely, homevoter self-interest—are now driving pro-housing reforms, as homeowners recognize the economic benefits of growth. Whereas the homevoter hypothesis largely assumes that new housing is negatively capitalized in incumbents' home prices, this hypothesis asserts that new housing positively affects home values.³²⁹

Fischel briefly contemplated that population and housing diversity might increase home values and garner homeowner support.³³⁰ As evidence, he pointed to several pricey yet racially heterogeneous suburbs, including Oak Park, Illinois; Shaker Heights, Ohio; and Maplewood, New Jersey.³³¹ He also observed that several new towns, such as Celebration, Florida and Reston,

MONITOR (Sept. 25, 2023), <https://www.austinmonitor.com/stories/2023/09/austin-policy-lets-builders-forgo-red-tape-the-result-more-affordable-housing-less-public-input> [https://perma.cc/G6NF-7698]; Christopher, *supra* note 27. Where reforms allow these larger projects, developers and their allies would seemingly be more likely to support them.

325. RICHARD D. KAHLENBERG, EXCLUDED: HOW SNOB ZONING, NIMBYISM, AND CLASS BIAS BUILD THE WALLS WE DON'T SEE 167 (2023).

326. Videoconference Interview with Byron Folwell, Co-Founder, Neighbors for Boise (June 3, 2024) (on file with author).

327. *See* SCHUETZ, *supra* note 52, at 147.

328. *Id.* at 155.

329. *See* FISCHEL, *supra* note 8, at 69–70.

330. *See id.*

331. *See id.* at 70.

Virginia, have heterogeneous housing and high home values.³³² Although these examples make up a minority of suburban localities, they demonstrate capitalization’s flexibility: diversity or walkability may well increase home values.³³³ Indeed, some surveys indicate that vast majorities of homeowners support both additional multi-family housing in their neighborhoods and additional housing density around transit stations.³³⁴

New housing in a locality could boost home values in two key ways. First, reforms that enable homeowners to build additional housing on their own properties increase their land values.³³⁵ For instance, allowing ADUs affords homeowners an opportunity to earn rental income, thus increasing property values.³³⁶ The same is true for middle housing. Empirical evidence indicates that many homeowners have begun to understand this tradeoff, given their broad support for ADUs.³³⁷

Second, reforms might indirectly increase home values through several macroscale economic and other benefits. Additional housing in the community provides local business owners with a greater customer base and workforce, thereby bolstering local economic development and producing a virtuous cycle of appreciating property values.³³⁸ Moreover, denser housing means neighborhoods can support more commercial services, increasing the odds that a homeowner might have easy access to desirable amenities like

332. *See id.* at 69–70.

333. *See* Fennell, *supra* note 26, at 620–21 (describing capitalization as a “neat trick”).

334. *See* Manny Garcia, *Across 29 Metro Areas, Residents Largely Support Allowing Missing Middle Homes in Residential Neighborhoods*, ZILLOW (May 31, 2023), <https://www.zillow.com/research/missing-middle-affordability-32711> [<https://perma.cc/2ERQ-EKB8>]; Alex Horowitz & Tushar Kansal, *Survey Finds Large Majorities Favor Policies to Enable More Housing*, PEW (Nov. 30, 2023), <https://pew.org/46CDNx1> [<https://perma.cc/YY83-QABG>].

335. Importantly, whereas reforms increase land values, they have the potential to reduce per-unit housing prices, construction costs, and infrastructure costs. *See* KAHLENBERG, *supra* note 325, at 39.

336. *See* Sarah Tory, *Can Accessory Dwelling Units in Denver Help Keep Families and Communities Intact?*, COLO. SUN (Mar. 29, 2024), <http://coloradosun.com/2024/03/29/colorado-accessory-dwelling-unit-communities-families> [<https://perma.cc/3V77-9BCN>] (discussing the benefits of ADU development for lower-income homeowners).

337. *See* Brad Neumann, *Accessory Dwelling Units—Coming to a Neighborhood Near You?*, MICH. ST. UNIV. (Sept. 9, 2022), https://www.canr.msu.edu/news/accessory_dwelling_units_coming_to_a_neighborhood_near_you [<https://perma.cc/YR6P-FFQU>] (noting both increased adoption of and resistance to ADUs); Elmendorf & Nall, *supra* note 318, at 23 (observing that California voters’ support for ADUs outstrips opposition to them). Homeowners often recognize when public decision-making will enhance their property values, as was the case during the opening of transit stations along the Washington, D.C. Metro. *See* ELLICKSON, *supra* note 23, at 128.

338. *See* Hankinson, *supra* note 30, at 475.

restaurants, coffee shops, grocery stores, and retail sales and services.³³⁹ Studies consistently demonstrate that walkable communities with these sorts of amenities command high prices.³⁴⁰ Popular demand for walkable places explains the resurgence of many central cities in recent decades.³⁴¹

Denser housing carries other value-creating benefits, too. Housing *types* matter when it comes to whether public goods become congested by new housing.³⁴² New large-lot single-family housing on the urban fringe induces automobile usage, often congesting local roads. Conversely, dense infill housing increases the odds that new residents will walk, bike, or ride transit instead. Additionally, taxes and fees from new housing could support increased capacity for public amenities like libraries or schools. Fischel acknowledges that communities might be more accepting of new housing where the developer pays the community—in some form—to accept it.³⁴³ If development charges levied on new housing pay for new parks, expanded schools, or improved infrastructure, home values will likely improve.

Furthermore, whereas segregation depresses home values in racially isolated neighborhoods, home values may benefit from diversity.³⁴⁴ Fischel notes that diverse schools might perform better than homogenous ones.³⁴⁵ Robert Putnam has found that diverse societies are more creative and innovative, and experience more rapid economic growth, than homogeneous communities.³⁴⁶ And some evidence indicates that Americans now desire to live in diverse communities more than in earlier generations.³⁴⁷ To support the argument that some communities now value economic and cultural

339. See Scott Beyer, *The Neighborhood Has Gentrified, But Where's the Grocery Store?*, GOVERNING (Jan. 26, 2015), <https://www.governing.com/archive/gov-retail-gentrification-series.html> [<https://perma.cc/H5X8-Y3CP>].

340. See Lily Katz, *How Much Does Walkability Increase the Value of a Home?*, REDFIN (Oct. 14, 2020), <https://www.redfin.com/news/how-much-does-walkability-increase-home-values> [<https://perma.cc/5U85-PW3M>]; Melissa Dittmann Tracey, *Survey: Buyers May Pay More to Live in Walkable Communities*, REALTOR MAG. MEDIA (June 27, 2023), <https://www.nar.realtor/magazine/real-estate-news/survey-buyers-may-pay-more-to-live-in-walkable-communities> [<https://perma.cc/4DAP-RVDT>]; Joe Cortright, *Walkable Places Are Growing in Value Almost Everywhere*, STRONG TOWNS (Jan. 22, 2020), <https://www.strongtowns.org/journal/2020/1/22/walkable-places-are-growing-in-value> [<https://perma.cc/KLH7-5S3H>].

341. See Schragger, *supra* note 81, at 198 (describing the increasing desirability of cities).

342. See FISCHEL, *supra* note 8, at 52.

343. See *id.* at 66–67.

344. See *id.* at 70; KAHLENBERG, *supra* note 325, at 79.

345. See FISCHEL, *supra* note 8, at 70.

346. See Robert D. Putnam, *E Pluribus Unum: Diversity and Community in the Twenty-First Century*, 30 SCANDINAVIAN POL. STUD. 137, 140–41 (2007).

347. Stahl, *supra* note 196, at 514.

diversity, Kenneth Stahl points to the adoption of local minimum wage laws in some cities.³⁴⁸ Whereas political economy theory dictates that communities will exclude poor people to avoid income and wealth redistribution, minimum wage laws signal greater openness to diversity and may encourage innovation and economic development.³⁴⁹ In Stahl’s telling, these benefits of diversity can be positively capitalized into home values, and communities may now seek economic and cultural diversity for this very purpose.³⁵⁰

Evidence of greater homeowner support for—or at least acceptance of—pro-housing zoning reforms is apparent from many of the places that have adopted middle-housing and ADU reforms. Several cities that have adopted middle-housing reforms are majority-homeowner cities. For instance, in places like Anchorage, Alaska; Boise, Idaho; Rochester, Minnesota; and Spokane, Washington, all of which adopted zoning reforms to allow middle housing, over sixty percent of their respective populations live in owner-occupied housing.³⁵¹ In Boise, for example, homeowners who testified in favor of the city’s reforms indicated that new housing in their neighborhoods would enable greater walkability and bikeability and that they would benefit from the fact that infill housing would enable protecting open space on the city’s fringes.³⁵²

Whereas the homevoter hypothesis is framed in terms of rational behavior by homeowners, individual homeowners do not always behave in an economically rational manner.³⁵³ Although polling on ADU reforms suggests that homeowners understand those reforms’ implications for property value appreciation, homeowners in many suburbs still resist greater density, whether because they lack information about density’s probable effect on property values or they are concerned about nonmonetary things like

348. *See id.* at 514–15.

349. *Id.* at 515–16.

350. *Id.* at 516.

351. *Table B25008*, *supra* note 309. For the precise filters used on this table to highlight the data that supports this point, please see the following URL: [https://data.census.gov/table/ACSDT5Y2022.B25008?t=Occupancy Characteristics&g=040XX00US02,06,13,16,19,21,24,26,27,37,39,47,48,49,50,51,53,55_060XX00US5000710675,5151090020_160XX00US0203000,0606000,0653000,0664000,0667000,1304000,1322052,1608830,1938595,2148000,2404000,2634000,2743000,2754214,2754880,2758000,3712000,3719000,3755000,3915000,4159000,4740000,4805000,4819000,4824000,4967000,5103000,5114968,5367000,5370000,5372625,5375775,5553000&y=2022](https://data.census.gov/table/ACSDT5Y2022.B25008?t=Occupancy%20Characteristics&g=040XX00US02,06,13,16,19,21,24,26,27,37,39,47,48,49,50,51,53,55_060XX00US5000710675,5151090020_160XX00US0203000,0606000,0653000,0664000,0667000,1304000,1322052,1608830,1938595,2148000,2404000,2634000,2743000,2754214,2754880,2758000,3712000,3719000,3755000,3915000,4159000,4740000,4805000,4819000,4824000,4967000,5103000,5114968,5367000,5370000,5372625,5375775,5553000&y=2022) [https://perma.cc/U9Y6-KZP8].

352. *See, e.g.*, City of Boise Public Meetings, *Boise City Council – Zoning Code Meeting*, YOUTUBE (June 12, 2023), at 3:10:06, <https://www.youtube.com/watch?v=U4b3s59DuTs> [https://perma.cc/UL6M-XUXQ] (public comments of homeowners who support zoning reforms).

353. *See supra* notes 250–54 and accompanying text.

neighborhood aesthetics or attitudes about newcomers.³⁵⁴ Nevertheless, the most densely populated places in America have the highest land values,³⁵⁵ suggesting resistance to density is economically irrational. In any event, qualitative and quantitative empirical studies could supplement this analysis and aid in confirming whether reform jurisdictions' adoption of reforms is motivated by homeowner self-interest.

C. Rise of the "Rentvoter"

The third possible explanation for reforms is increased renter participation in local politics. The U.S. homeownership rate has decreased from its peak in 2004, while the number of renter households increased from just over thirty-three million in 2001 to over forty-four million in 2023.³⁵⁶ This increase in renter households is attributed to declining household sizes, as growth in one-person renter households outpaced growth in larger households.³⁵⁷

Before the COVID-19 pandemic, the number of renter households earning at least \$75,000 per year grew dramatically.³⁵⁸ Homebuying activity during the pandemic reversed some of this growth, yet these higher-income renters still make up a large share of all renters.³⁵⁹ This growth in high-income renter households occurred because many Millennials have rented later into their lives than prior generations due to suppressed incomes during and after the Great Recession, high student debt loads, and delayed family formation.³⁶⁰ Forty-two percent of all higher-income renters are between thirty-five and fifty-four years old.³⁶¹ These renters are also more likely than other renters to

354. See generally Trounstein, *supra* note 30.

355. See Richard Florida, *The Staggering Value of Urban Land*, BLOOMBERG (Nov. 2, 2017), <https://www.bloomberg.com/news/articles/2017-11-02/america-s-urban-land-is-worth-a-staggering-amount> [<https://perma.cc/EX23-PYSG>].

356. See *Homeownership Rate in the United States*, FED. RES. BANK ST. LOUIS (Oct. 29, 2024), <https://fred.stlouisfed.org/series/RHORUSQ156N> [<https://perma.cc/Y99C-X46B>]; JOINT CTR. FOR HOUS. STUD. OF HARV. UNIV., *supra* note 10, at 9. As of the first quarter of 2024, the homeownership rate was 65.6%, which is higher than a low of 62.9% in the second quarter of 2016, but well below its peak of 69.2% in the second quarter of 2004. See *Homeownership Rate in the United States*, *supra* note 356.

357. JOINT CTR. FOR HOUS. STUD. OF HARV. UNIV., *supra* note 10, at 10.

358. See *id.*

359. *Id.* at 10–12 (stating that the number of renter households earning \$75,000 or more per year grew by forty-three percent between 2010 and 2022, and further showing that these households now comprise thirty percent of all renter households).

360. See *id.* at 11.

361. *Id.* at 13.

be married and have children.³⁶² At the same time, aging Baby Boomers are expected to drive demand for renting among older households for many years to come.³⁶³

These demographic changes may portend greater renter participation in local politics. As Section II.B.1 described, there is a strong correlation between homeownership and a person’s likelihood to vote in local elections.³⁶⁴ But local voter turnout is affected by other factors too.³⁶⁵ Generally speaking, older, more educated, and longer-tenured residents are more likely to participate in local elections.³⁶⁶ Although these characteristics overlap closely with homeownership, older, more educated, and long-term renters vote at high rates, too.³⁶⁷ In 1990, more than half of renters with a college degree, almost half of renters over sixty-five years old, and about half of renters who’d lived in a given community for more than ten years reported that they frequently voted in local elections.³⁶⁸ Assuming high-income renters, who constitute a larger share of renters than they did two decades ago, are more educated than lower-income renters, they would be more likely to vote in local elections.³⁶⁹ Furthermore, although middle-aged renters vote at lower rates than similarly aged homeowners, in 1990, approximately forty percent of renters between the ages of forty and fifty-five reported voting frequently in local elections.³⁷⁰ Thus, the increasing number of renter households and increasing shares of high-income and middle-aged renters might signal an increase in renters with a higher propensity to participate in local political affairs.

High housing prices may be giving these higher-income and middle-aged renters even more incentive to participate vigorously. For instance, consider a Millennial couple with children who rent a home in a desirable community.

362. *Id.*

363. *See id.* at 12.

364. *See* OLIVER ET AL., *supra* note 37, at 71. Homeownership is also an important determinant of whether a person participates in local development approval procedures. *See* EINSTEIN ET AL., *supra* note 13, at 101 (observing that over seventy percent of commenters at local public hearings were homeowners, even though they make up less than half of the population of voters).

365. OLIVER ET AL., *supra* note 37, at 70–71.

366. *Id.* at 71.

367. *Id.* at 70–71.

368. *Id.* at 71.

369. *Id.* This is a safe assumption, given that there is strong correlation between higher education levels and income in the United States. *See* Elka Torpey, *Measuring the Value of Education*, U.S. BUREAU LAB. STAT. (Apr. 2018), <https://www.bls.gov/careeroutlook/2018/data-on-display/education-pays.htm> [<https://perma.cc/Z5SJ-S5Y3>].

370. OLIVER ET AL., *supra* note 37, at 70–71.

They rent there because of its public amenities like good schools, and they wish to purchase a home there someday. This couple has as much—and perhaps more—incentive to participate in local elections and development approval processes as any homeowner, as these decisions may directly affect their ability to acquire a home.

Increased renter participation in local government would help to explain some reforms. According to one survey, nearly ninety percent of renters support additional multi-family housing in their neighborhoods, which is about eleven percent more support than among homeowners.³⁷¹ Renters' strong support for multi-family housing in their communities was consistent across various housing types: ninety percent of renters supported ADUs and middle housing, eighty-seven percent supported medium-density condominium or apartment housing, and eighty-six percent supported large, fifty-plus-unit multi-family projects.³⁷² Other empirical work confirms renter support for increasing housing supply.³⁷³ Although some literature suggests that urban renters might oppose new development out of fear it will result in gentrification and displacement, renters nationally appear to support additional housing.³⁷⁴

Demographic data about the features of some of the reform jurisdictions point to greater renter influence in these places. Several cities—including Berkeley, California; Iowa City, Iowa; Durham, North Carolina; Knoxville, Tennessee; Austin, Texas; Burlington, Vermont; and Charlottesville, Virginia—that adopted middle-housing reforms are places with large universities.³⁷⁵ Because of high student populations, university towns tend to have high proportions of renters.³⁷⁶ Moreover, several of the cities that have adopted middle-housing reforms are majority-renter places, including Oakland, California; Cincinnati, Ohio; Burlington, Vermont; and Alexandria, Virginia.³⁷⁷ Thus, local acceptance of more housing may be driven by

371. See Garcia, *supra* note 334.

372. See *id.* Although renters might support additional housing supply in their communities to a greater degree than homeowners, they are also strongly supportive of renter-focused benefits such as rent control and renter tax credits. Curiously, the work of Elmendorf et al. suggests that homeowners might support new greenfield housing development to a greater degree than renters. Elmendorf et al., *supra* note 30, at 25–26.

373. See Hankinson, *supra* note 30, at 477, 481.

374. See *id.* at 481–82; Been, *supra* note 31, at 242–45.

375. See Cantong et al., *supra* note 2.

376. See Julia Bunch, *College Town Apartment Markets Outperform U.S. Norms*, REALPAGE (Jan. 19, 2024), <https://www.realpage.com/analytics/college-towns-webcast-recap> [<https://perma.cc/N8U7-WJ32>].

377. Table B25008, *supra* note 309.

increased participation from renters, although more empirical work and longitudinal analysis are necessary to confirm whether this is true.

D. Breaking Down Collective-Action Barriers

The fourth reason for zoning reforms’ increasing adoption is a diminishment in housing supporters’ collective-action barriers.³⁷⁸ The reforms described in this Article are not of the seriatim variety that lead to antidevelopment outcomes.³⁷⁹ Instead, they tend to be jurisdiction-wide upzonings.³⁸⁰ Thus, these reforms effectively prove Hills and Schleicher’s point: whereas seriatim decision-making aids antidevelopment interests’ organizing, pro-housing zoning reforms are easier to achieve through larger-scale interventions.³⁸¹ In fact, by allowing new housing by right, these reforms ensure future applications avoid public participation opportunities that make seriatim decision-making problematic.³⁸² However, these jurisdiction-wide pro-housing reforms were not as prevalent when Hills and Schleicher wrote their article, suggesting the existence of additional breakdowns in collective action barriers for housing supporters. This Section briefly reviews literature on collective action and then turns to two reasons that housing supporters now enjoy lower collective action barriers.

Collective action requires several ingredients. First, it requires a problem that motivates individuals to engage.³⁸³ That problem must be shared with others to foment collective action.³⁸⁴ The problem must also be of sufficient importance to prospective participants to garner support.³⁸⁵ Participants tend to join collective action efforts when they perceive that the benefits of participation—such as, in this instance, lower housing prices—exceed the costs of engaging.³⁸⁶

378. Ellickson, *supra* note 1, at 417 n.135 (“The advent of the internet . . . has slightly reduced housing consumers’ costs of collective action.”).

379. *See* Hills & Schleicher, *supra* note 32, at 91.

380. *See, e.g.,* Cantong, *supra* note 2 n.19; Mervosh, *supra* note 92; Britschgi, *supra* note 101; Slay, *supra* note 103; Day, *supra* note 99.

381. *See* Hills & Schleicher, *supra* note 32, at 91.

382. Lemar, *supra* note 68, at 1130–31.

383. SHAKED SPIER, COLLECTIVE ACTION 2.0: THE IMPACT OF SOCIAL MEDIA ON COLLECTIVE ACTION 113 (2017); *see also* OLIVER ET AL., *supra* note 37, at 59 (describing people who turn out to vote as being “intrinsically motivated, extrinsically mobilized, or differentially affected by the costs of voting.”).

384. SPIER, *supra* note 383, at 113.

385. HELEN MARGETTS ET AL., POLITICAL TURBULENCE: HOW SOCIAL MEDIA SHAPE COLLECTIVE ACTION 189 (2015).

386. *See* OLSON, *supra* note 276, at 33–34.

Second, organization for collective action is often determined by a group's size. On one hand, small groups enjoy several advantages.³⁸⁷ In small groups, each member's gain from the collective action is more likely to exceed his or her cost of providing it, thereby encouraging voluntary action.³⁸⁸ Small groups are particularly successful at organizing when at least one member's benefit so outweighs the costs of providing it that she would bear that entire cost on her own.³⁸⁹ Moreover, small groups more easily achieve consensus.³⁹⁰ And where their members are physically proximate to one another, they can easily exert social pressure on others to participate in the group's activities.³⁹¹ Related to this Article, a group of neighbors opposing a nearby housing development represents a classic small group.³⁹²

On the other hand, large groups face several challenges. Their inherent diversity makes for less consensus around their goals.³⁹³ Even if the group achieves its goal, the benefit to each member may be small.³⁹⁴ It is unlikely that any individual will benefit so much that she will bear the cost of providing it.³⁹⁵ Thus, individuals have less incentive to join and participate in larger groups.³⁹⁶ This dynamic contributes to larger groups' high organizing costs.³⁹⁷ These groups also face free-rider problems, as individuals realize benefits from the group's activities without contributing to them.³⁹⁸ Compared with small groups, large groups also lack power to exert social pressure: a member's relative size in a large organization means that her participation matters little and individual members may not even know one another.³⁹⁹ In the context of this Article, the beneficiaries of pro-housing zoning reforms represent a classic large group.⁴⁰⁰

Although housing supporters have in the past suffered from several disadvantages, collective action among them may be easing in several key ways. First, the housing crisis itself—which by many measures is a big problem that is important to many people—may be causing greater

387. See Hills & Schleicher, *supra* note 32, at 92.

388. OLSON, *supra* note 276, at 3, 34.

389. *Id.* at 33–34.

390. See SPIER, *supra* note 383, at 75.

391. See OLSON, *supra* note 276, at 60.

392. See Hills & Schleicher, *supra* note 32, at 92.

393. See OLSON, *supra* note 276, at 58–60.

394. See *id.* at 48.

395. *Id.*

396. *Id.* at 58.

397. See *id.* at 48.

398. See *id.* at 35.

399. *Id.* at 62.

400. See Hills & Schleicher, *supra* note 32, at 90–91.

participation in public discourse regarding housing and zoning. Today, a larger share of the population is strained by housing costs than in the past, and the middle class is particularly affected.⁴⁰¹ These strains are having a widespread economic impact: employers are struggling to find workers and the delivery of public goods such as childcare and education has become stressed.⁴⁰² Compared to when Hills and Schleicher wrote in 2011, today’s housing crisis should supply ample motivation for engagement. Given that political engagement tends to increase with income levels, growing cost burden among middle-income households might serve as a predicate for more vigorous participation and collective action to increase housing supply.⁴⁰³ Furthermore, employers and others whose economic welfare is inhibited by high housing prices likely share the goal of reducing housing costs and may engage politically to address the problem.

Second, whereas housing supporters and cost-burdened households are large groups, some of their disadvantages in organizing may be abating thanks to technological change. Social media especially reduces some of the challenges faced by large groups. Social media is now a primary medium for political engagement, particularly among young people.⁴⁰⁴ Evidence suggests that individuals’ Internet use now predicts their political activity.⁴⁰⁵ Although organizing via social media is effective only when followed by in-person action, many forms of collective action have moved online.⁴⁰⁶

Social media eases large-group organizing in three important ways. First, it has equalized, at least partially, large and small groups’ organizing costs,

401. See Peyton Whitney, *More Than 42 Million US Households Were Cost Burdened in 2022*, JOINT CTR. FOR HOUS. STUD. OF HARV. UNIV. (Jan. 19, 2024), <https://www.jchs.harvard.edu/blog/more-42-million-us-households-were-cost-burdened-2022> [https://perma.cc/59J7-2EUS]. Between 2019 and 2022, housing cost burden rates among middle-income renter households (i.e., those earning between \$45,000 and \$75,000) increased by more than five percent. *Id.*

402. See *supra* notes 9–15 and accompanying text.

403. See Daniel Laurison, *Social Class and Political Engagement in the United States*, 10 SOCIO. COMPASS 684, 685–86 (2016).

404. See MARGETTS ET AL., *supra* note 385, at 46, 50–51 (observing that, at the time of writing, seventy-five percent of the U.S. population had at least one social media profile, and one-third of adults over sixty-five years old use Facebook). When these authors use the term “social media,” it generally describes “Internet-based platforms that allow the creation and exchange of user-generated content.” *Id.* at 5–6. Shaked Spier describes social media as having three dimensions: technology, institutions, and media. SPIER, *supra* note 383, at 16.

405. See MARGETTS ET AL., *supra* note 385, at 52.

406. SPIER, *supra* note 383, at 114; see also MARGETTS ET AL., *supra* note 385, at 25 (noting that the logic of collective action has not changed, but the costs and benefits are adjusted by social media).

such as building consensus, membership recruitment, and messaging.⁴⁰⁷ Within a single online platform, individuals and groups can create content, communicate it to a wide audience, and cooperate with others to create more content.⁴⁰⁸ For example, hashtags, which link content by subject matter, facilitate connections among individuals based on common content, discourse, or positions.⁴⁰⁹ Further, by using algorithms to feed unique content to individual users, social media platforms aid groups in reaching prospective members or supporters.⁴¹⁰ Moreover, these platforms reduce individuals' participation costs: instead of joining an organization, individuals can freely "like" or repost content.⁴¹¹ Where a cause simply needs supporters, social media aids in securing enough participants to form a movement.⁴¹²

Second, social media facilitates information-sharing among disparate groups.⁴¹³ In an influential 1973 article, the sociologist Mark Granovetter emphasized the importance of so-called "weak ties" between people that enable inter-group knowledge transmission across social networks.⁴¹⁴ In the pre-social media era, Granovetter assumed that whereas people with strong family, friendship, or professional ties could more freely communicate, those with weak ties had fewer opportunities to do so.⁴¹⁵ Now, however, social media platforms allow users to connect and share information with contacts, friends, and followers, with whom they have never met in person, thereby amplifying weak ties.⁴¹⁶ These platforms collapse strong and weak ties into a single network, enabling rapid information-sharing between and among

407. See MARGETTS ET AL., *supra* note 385, at 35.

408. See SOCIAL MEDIA, POLITICS AND THE STATE: PROTESTS, REVOLUTIONS, RIOTS, CRIME AND POLICING IN THE AGE OF FACEBOOK, TWITTER AND YOUTUBE 5, 15 (Daniel Trottier & Christian Fuchs eds., 2014); see also SPIER, *supra* note 383, at 114. This "initially unstructured collective behavior . . . can in many cases promote the emergence of norms and forms of order, both taking place within the respective platform and, when a critical mass is achieved, across platforms." *Id.* at 112.

409. See SPIER, *supra* note 383, at 110, 112.

410. See *id.* at 22.

411. MARGETTS ET AL., *supra* note 385, at 48.

412. See, e.g., *id.* at 54; SPIER, *supra* note 383, at 112.

413. See SPIER, *supra* note 383, at 111.

414. See Mark S. Granovetter, *The Strength of Weak Ties*, 78 AM. J. SOCIO. 1360, 1361 (1973); see also SPIER, *supra* note 383, at 73–74. Weak ties are distinguishable from strong ties, which include relationships among family, friends, and professionals, and where individuals have substantially overlapping knowledge. See Granovetter, *supra* note 414, at 1366, 1370, 1374.

415. See Granovetter, *supra* note 414, at 1361–66.

416. See SPIER, *supra* note 383, at 76; MARGETTS ET AL., *supra* note 385, at 68–69.

disparate individuals and groups.⁴¹⁷ This amplification of weak ties aids in mobilizing and recruiting supporters for many causes.⁴¹⁸

Third, social media supports collective action by enabling users to see what other people are doing and making users’ actions visible.⁴¹⁹ Whereas an in-person petition signer cannot know who else or how many others have signed, social media allows users to gauge others’ involvement in a cause.⁴²⁰ This information affects the user’s response: if she perceives that many others support a cause, she is more likely to join it.⁴²¹ Furthermore, through widely shared posts and other activities, social media users make themselves visible.⁴²² Evidence indicates that people more willingly join causes, make donations, or otherwise participate if it will bring social prestige or avoid shame.⁴²³ Social media enables users to receive immediate feedback from their participation via likes, reposts, or other reactions from fellow users.⁴²⁴ Social media’s ability to influence these actions is augmented because these actions are low-cost in both money and time.⁴²⁵

These features of social media have seemingly abetted zoning reforms’ spread.⁴²⁶ Housing supporters have harnessed social media to respond to unaffordable housing and develop clear group identities. The YIMBY movement originated as local, loosely organized groups of housing supporters linked by social media.⁴²⁷ In the Bay Area, social media enabled their membership recruitment efforts and organization and allowed them to inform one another of opportunities to support new housing in public procedures.⁴²⁸ In particular, YIMBY groups share the dates and times of public meetings and hearings on housing-related matters to encourage participation, along with research and other data to inform members’ advocacy efforts.⁴²⁹ Owing in part to social media, the YIMBY organization

417. SPIER, *supra* note 383, at 77.

418. *Id.* at 78.

419. MARGETTS ET AL., *supra* note 385, at 12.

420. *Id.*

421. *Id.*

422. *Id.* at 12–13.

423. *Id.* at 138–39.

424. SPIER, *supra* note 383, at 113.

425. MARGETTS ET AL., *supra* note 385, at 62–63.

426. ELLICKSON, *supra* note 23, at 138.

427. See CONOR DOUGHERTY, *GOLDEN GATES: FIGHTING FOR HOUSING IN AMERICA* 28, 36, 230 (2020) (describing early organization of San Francisco’s YIMBY group via Twitter and use of social media in organizing YIMBY members); ELLICKSON, *supra* note 23, at 138 (describing the YIMBY movement as an “outgrowth” of the internet and social media).

428. See DOUGHERTY, *supra* note 427, at 28, 31, 36, 219–20.

429. See *id.*

and stories of its successes have spread nationally, driving several state and local legislative successes.⁴³⁰ Social media now plays an important role in mobilizing supporters for reforms in many places, including Minneapolis and Boise.⁴³¹ It is enabling physically disparate housing supporters to connect more readily and share information more widely and expediently. Social media may also encourage politically inactive people to join reform coalitions, as they can now identify other housing supporters and gain visibility. The YIMBY organization's experience seems to suggest that all these things are happening.

Of course, the foregoing observations about social media's ability to aid organizing apply to antidevelopment interests as well. There is ample evidence that groups who oppose specific development projects and jurisdiction-wide reforms harness Facebook, NextDoor, X, and other social media platforms to organize and advocate their positions.⁴³² Yet, although antidevelopment groups also benefit from social media's existence, their presence and success in opposing development proposals well before social media's existence suggests that technology and social media are hardly a necessary key to their organizational abilities.⁴³³ In contrast, YIMBY groups faced much greater collective action challenges prior to the dawn of social media.⁴³⁴ Thus, although social media has enabled organization for both pro-growth and anti-development groups, it has had outsized benefits for pro-housing interests.

430. YIMBY ACTION, *supra* note 8, at 5–8, 15–16. Not all pro-housing advocacy groups are formally aligned with the YIMBY Action coalition, but they tend to advocate for the same things. See SCHUETZ, *supra* note 52, at 154.

431. KAHLENBERG, *supra* note 325, at 158–59; ELLICKSON, *supra* note 23, at 241; *Dismantling Exclusionary Zoning: An Interview with Janne Flisrand*, URB. DESIGN F. (Apr. 15, 2020), <https://urbandesignforum.org/dismantling-exclusionary-zoning-an-interview-with-janne-flisrand> [<https://perma.cc/R8W7-SFTJ>]; Neighbors for Boise (@neighbors4boise), FACEBOOK, <https://www.facebook.com/neighbors4boise> (last visited Feb. 26, 2025); Interview with Bryon Folwell, *supra* note 326.

432. See, e.g., Aaron Gordon, *How Nextdoor Put Neighbors In a Housing Policy 'Cage Match'*, VICE (Jan. 24, 2023), <https://www.vice.com/en/article/nextdoor-housing-crisis-policy> [<https://perma.cc/A8AB-NH9S>]; Hayden Buckfire, Opinion, *Nextdoor Is Wreaking Havoc in Suburbia*, MICH. DAILY (Oct. 25, 2023), <https://www.michigandaily.com/opinion/nextdoor-is-wreaking-havoc-in-suburbia> [<https://perma.cc/M2PA-PLTT>]; Videoconference Interview with Deanna Dupuy, Planning Manager, City of Boise, Idaho (May 22, 2024) (on file with author).

433. See Hills & Schleicher, *supra* note 32, at 92.

434. See *id.*

E. Return of the Public Interest Model

The fifth reason for reforms’ adoption is unrelated to constituents’ self-interest: communities may simply act out of public interest. These places might adopt reforms because supplying ample affordable housing is an objective, communal value.⁴³⁵ Rather than reflecting competing or shared self-interest, these jurisdictions’ zoning reform processes might instead result from reasoned deliberations that draw out shared, objective housing-affordability values and the best means to achieve them.⁴³⁶ Under this model, instead of acting out of self-interest, local legislators approve zoning reforms because they reflect the community’s values.⁴³⁷

Several scholars have observed that self-interest drives attitudes about housing. Although voters often prioritize moral or ideological values over self-interest, homeowners tend to vote in particularly self-interested ways when confronted with proposals to increase or decrease their property tax burden.⁴³⁸ Public policy decisions that affect housing values can greatly influence many voters’ finances.⁴³⁹ Because of its visibility and impact on lived experience, for many voters, housing is easily tied to well-being.⁴⁴⁰ Fischel’s homevoter hypothesis is rooted entirely in homeowners’ economic self-interest and other authors have shown that homeowners have particularly negative views about new housing in their communities, multi-family housing, and state preemption of local control over housing development.⁴⁴¹ Moreover, William Marble and Clayton Nall find that, among homeowners who identify as politically liberal, self-interest supersedes their ideological views when it comes to attitudes around new market-rate housing development.⁴⁴²

Nevertheless, self-interest is not alone in shaping views about housing.⁴⁴³ There is evidence that the housing crisis is driving some people to consider housing in the context of broader values. A large majority of Americans are

435. See Michelman, *supra* note 149, at 149.

436. See *id.* at 149, 152.

437. See *id.* at 149.

438. See David O. Sears & Carolyn L. Funk, *The Limited Effect of Economic Self-Interest on the Political Attitudes of the Mass Public*, 19 J. BEHAV. ECON. 247, 255, 261 (1990).

439. FISCHEL, *supra* note 8, at 4; Hankinson, *supra* note 30, at 476.

440. Hankinson, *supra* note 30, at 476.

441. See, e.g., Monkkenen & Manville, *supra* note 54, at 685–86; Trounstein, *supra* note 30, at 301; Hall & Yoder, *supra* note 209, at 352; Hankinson, *supra* note 30, at 475; FISCHEL, *supra* note 8, at 4, 9.

442. Marble & Nall, *supra* note 155, at 1747, 1761.

443. ELLICKSON, *supra* note 23, at 141 (noting how political ideology plays a potential role in land use regulation).

now concerned about unaffordability.⁴⁴⁴ However, polling before the 2024 U.S. presidential election suggests that many voters view housing through a public-interest lens: whereas four in ten listed their own ability to afford housing as their top housing concern, the majority listed things such as housing costs' impact on friends and family, concerns about essential workers' ability to afford housing, racial and income segregation, or the environment.⁴⁴⁵ The national political parties' release of housing platforms in the 2024 election may be driving some public interest-oriented voter attitudes about housing in recent months.⁴⁴⁶

Furthermore, public-choice theorists may overemphasize homeowners' concern with home values. Given that Americans now move less than they used to, they may be less concerned about home values.⁴⁴⁷ Whereas a household with plans to relocate wants to increase its house value, a less mobile one has less motivation to do so. The latter household's members are likely more concerned about things like friends' and family members' ability to live nearby, the vibrancy and diversity of the community, and reducing vehicle traffic congestion on their daily commutes. These issues, rather than a mercenary interest in boosting home prices, might weigh more heavily in an immobile household's level of support for reforms.

There is reason to believe that the public interest model is behind some local responses to the housing crisis.⁴⁴⁸ For instance, in Minneapolis, racial justice—which is hardly a self-interest-driven issue in a majority-white, non-Hispanic city—was one of the leading themes of reformers' and elected

444. Ekins & Gygi, *supra* note 15.

445. Financial Times - Michigan Ross Nationwide April Survey (2024) (unpublished data) (on file with author).

446. Cf. Hankinson, *supra* note 30, at 476 (observing that, in prior years, the national parties' lack of focus on housing might have been a reason why voters' self-interest superseded their moral and ideological values on this topic).

447. See Sabrina Tavernise, *Frozen in Place: Americans Are Moving at the Lowest Rate on Record*, N.Y. TIMES (May 3, 2024), <https://www.nytimes.com/2019/11/20/us/american-workers-moving-states-.html>; William H. Frey, *Americans' Local Migration Reached a Historic Low in 2022, but Long-Distance Moves Picked Up*, BROOKINGS (Feb. 2, 2023), <https://www.brookings.edu/articles/americans-local-migration-reached-a-historic-low-in-2022-but-long-distance-moves-picked-up> [<https://perma.cc/KA49-LBQY>]. This trend has been attributed to several factors, including an aging population, reduced geographic specificity of many jobs, availability of remote work due to technology, workers' increased ability to learn about alternative locations, and high housing costs themselves. Tavernise, *supra*; see also Greg Kaplan & Sam Schulhofer-Wohl, *Understanding the Long-Run Decline in Interstate Migration* (Fed. Rsrv. Bank Minneapolis, Working Paper No. 697, 2015), <https://www.minneapolisfed.org/research/working-papers/understanding-the-longrun-decline-in-interstate-migration> [<https://perma.cc/B6VM-XXS6>]; Ganong & Shoag, *supra* note 13.

448. See Michelman, *supra* note 149, at 150.

officials’ campaigns to reform zoning.⁴⁴⁹ The same framing was used to encourage Charlotte’s reforms.⁴⁵⁰ Support for Berkeley and Iowa City’s zoning reforms was organized around deconcentrating land-based wealth and reducing inequality.⁴⁵¹ Given that reforms have occurred in many cities that tend to elect Democratic candidates for national, state, and local offices—who in turn usually support broadening the social safety net and measures to increase housing access for lower-income households—it follows that these places’ constituents may be driven by moral or ideological values rather than self-interest.⁴⁵²

Thus, whereas some communities’ zoning reforms may have been motivated by public interest decision-making, such a decision-making model likely plays a minor role nationwide. Given that altruistic reformers will likely be drawn to expanding housing choice and the robust public choice literature around local zoning, reformers would be wise to concentrate their efforts on building the case for zoning reform in a way that demonstrates reforms’ benefits for self-interested homeowners and renters.

449. KAHLENBERG, *supra* note 325, at 165; SCHUETZ, *supra* note 52, at 148.

450. KAHLENBERG, *supra* note 325, at 178.

451. Jesse Barber, *Berkeley Zoning Has Served for Many Decades to Separate the Poor from the Rich and Whites from People of Color*, BERKELEYSIDE (July 23, 2024), <http://www.berkeleyside.org/2024/07/23/berkeley-zoning-has-served-for-many-decades-to-separate-the-poor-from-the-rich-and-whites-from-people-of-color-2> [https://perma.cc/WB5M-6JGP]; Erin Baldassari, *Berkeley Council Scales Down Major Housing Reform of Single-Family Zoning*, KQED (July 2024), <https://www.kqed.org/news/11996949/berkeley-council-scales-down-major-housing-reform-of-single-family-zoning> [https://perma.cc/7BVB-LCCM]; Izabela Zaluska, *Iowa City Considering Zoning Code Changes to Encourage Affordable Housing*, GAZETTE (Aug. 17, 2023), <https://www.thegazette.com/local-government/iowa-city-considering-zoning-code-changes-to-encourage-affordable-housing> [https://perma.cc/6FUL-94NW].

452. Martin Gilens & Adam Thal, *Doing Well and Doing Good? How Concern for Others Shapes Policy Preferences and Partisanship Among Affluent Americans*, 82 PUB. OP. Q. 209, 211 (2018); Matthew E. Kahn, *Do Liberal Cities Limit New Housing Development? Evidence from California*, 69 J. URB. ECON. 223, 224 (2011). Of course, the housing crisis has hit many left-leaning cities the hardest, which has perhaps necessitated these cities’ policy responses to it. See Justin de Benedictis-Kessner et al., *How Partisanship in Cities Influences Housing Policy*, (Harv. Kennedy Sch., Working Paper No. RWP21-35, 2022), <https://www.hks.harvard.edu/publications/how-partisanship-cities-influences-housing-policy> [https://perma.cc/E8QD-9656]. Nevertheless, problems of housing affordability have spread well beyond the confines of large Democratic cities. See, e.g., Joshua Fechter, *Republicans’ Budding Interest in Texas’ Housing Crisis Could Create Strange Political Bedfellows*, TEX. TRIBUNE (Mar. 28, 2024), <https://www.texastribune.org/2024/03/27/texas-republicans-housing-affordability-zoning-land-use> [https://perma.cc/B87Z-SE39]; Annie Lowrey, *The Anti-California*, ATLANTIC (Aug. 9, 2023), <https://www.theatlantic.com/ideas/archive/2023/08/rural-montana-housing-crisis-supply/674950> [https://perma.cc/8Z5F-MV2C].

F. Making Sense of Pro-Housing Decision-Making

The hypotheses presented above offer several clues as to what might be motivating pro-housing zoning reforms. As the foregoing discussion demonstrates, the forces undergirding the various hypotheses are evident in several of the reforms that have been adopted to date. If anything, the discussion above suggests that no single model describes every zoning reform. This conclusion may be dissatisfying for reformers. A more unified decision-making model for reform jurisdictions would offer a clearer path to achieving the broader reform needed to confront the housing crisis. Yet the multitude of reasons why communities support reforms makes achieving them more difficult. Whereas pro-housing reforms require, in some cases, years of study, public education, and coalition-building, the same is not true of quick-to-materialize development opposition.

This Section focuses on three important observations that derive from these hypotheses, including the relationship between pro-housing and antidevelopment forces, the limitations of the public interest model for broad reform, and opportunities for additional research. Each is presented in turn below.

1. YIMBYism's (Complex) Relationship to NIMBYism

First, in addition to explaining why pro-housing attitudes materialize and reforms occur, the accuracy of any of the hypotheses presented above will depend to some extent on whether and how *anti*-development attitudes materialize. In some circumstances, the self-interest that animates NIMBYism propels YIMBY reforms, such as where homeowners or renters recognize new housing's benefits. For example, Englewood, Colorado, changed its zoning to allow ADUs in part because incumbent homeowners desired to build ADUs for rental income or to house family members.⁴⁵³ There may be other circumstances where incumbent residents will benefit from improved public amenities, like transportation infrastructure, parks, or schools, paid for or built by a new housing developer.⁴⁵⁴ Similarly, renters might support YIMBY reforms because more housing supply will moderate rent increases.⁴⁵⁵

453. See John Aguilar, *Englewood Vote Means Grandpa Can Live Out Back for Cheap*, DENV. POST (Jan. 13, 2019), <https://www.denverpost.com/2019/01/13/englewood-accessory-dwelling-units-adus-affordable-housing> [https://perma.cc/UB66-LDRQ].

454. See FISCHER, *supra* note 8, at 66.

455. Hankinson, *supra* note 30, at 481.

In other circumstances, pro-housing reforms result from organized advocacy that blunts opposition. This dynamic appeared in Boise. There, nearly two hundred people testified on the city’s zoning reforms.⁴⁵⁶ A sizable minority was opposed to them.⁴⁵⁷ Many of the reforms’ supporters were organized by the pro-housing group Neighbors for Boise, while opponents were organized by a group called Reject Boise Upzone.⁴⁵⁸ Pro-reform testimony highlighted several public interest, values-based arguments that Neighbors for Boise promoted, such as the city’s need for greater affordability, open space protection, and walkability.⁴⁵⁹ Without Neighbors for Boise’s successful organizing, Reject Boise Upzone’s and others’ opposition might have been sufficient to defeat the reforms.⁴⁶⁰

There may be other circumstances where, whether due to a small incumbent population, a lack of organization among antidevelopment interests, or something else, NIMBYism is nonexistent or otherwise weak. This scenario appears to be the case in the fast-growing suburbs of Austin, Texas, which still adhere to a growth machine model.⁴⁶¹

These relationships among NIMBY and YIMBY forces, and where the hypotheses developed above fit into them, can be expressed in a two-by-two typology, as shown in Figure 1. Each axis identifies the relative strength of NIMBY and YIMBY forces, respectively, in a given locality. The first type of jurisdiction, with weak NIMBY and YIMBY forces—shown in the top-left of Figure 1—includes places such as small, yet fast-growing communities or older cities that have suffered disinvestment. Because these jurisdictions lack incumbent residents who exert strong influence over local politics, their decision-making is most susceptible to growth-machine capture.⁴⁶² In these places, which may have limited or obsolete public amenities, growth appeals to incumbent homeowners because it offers things like improved schools,

456. Jude Binkley, *Public Testimony for Proposed Boise Zoning Code Wraps Up*, KTVB7 (June 14, 2023), <https://www.ktvb.com/article/news/local/local-public-testimony-for-proposed-boise-zoning-code-wraps-up/277-9d2aed46-672c-46d5-acfd-40e6400fa51b> [https://perma.cc/87GR-BBNT].

457. Don Day, *Voices: Residents, Leaders Have Their Say on Boise’s Proposed Zoning Code Rewrite*, BOISEDEV (June 14, 2023), <https://boisedev.com/news/2023/06/14/boise-zoning-code-testimony> [https://perma.cc/L4VH-PJX7].

458. Interview with Byron Folwell, *supra* note 326; Interview with Deanna Dupuy, *supra* note 432.

459. See Day, *supra* note 457.

460. See Kazis, *supra* note 38, at 2340–41.

461. Ellickson, *supra* note 1, at 418.

462. See *id.*; Rosenbaum, *supra* note 182, at 1136–43; cf. Molotch, *supra* note 29, at 327–28 (describing the “leisured and sophisticated middle class with a tradition of broad-based activism” that captures local decision-making in other places).

parks, or other amenities.⁴⁶³ Renters benefit, too, as more housing might reduce rents or improve housing quality.⁴⁶⁴ With little organized support for or opposition to new housing in these places, public interest or communal values likely play little role in their zoning decision-making.⁴⁶⁵

The second type of jurisdiction, localities with strong YIMBY forces and relatively weak NIMBY forces—shown in the top-right of Figure 1—will adopt reforms out of some combination of constituent self-interest and communal values. Because of their relatively homogeneous views about new housing, these places are most likely to have a set of communal values—like housing abundance, affordability, racial equity, or environmental sustainability—that will be achieved by pro-housing legislation.⁴⁶⁶ Nevertheless, reform efforts in these places may also appeal to homeowner or renter self-interest by emphasizing the economic and quality-of-life benefits that come from more density, like walkable neighborhoods, reduced rents, and others. Burlington, Vermont, appears to be an example of this type of jurisdiction; although they faced some opposition, Burlington’s reform efforts enjoyed widespread support, and the city council passed them unanimously.⁴⁶⁷

The third type of jurisdiction, with strong NIMBY *and* YIMBY forces—shown in the bottom-right of Figure 1—requires housing supporters to be well-organized if they are to succeed. They must rely on a mix of homeowner or renter self-interest and values-based appeals to organize their coalition and overcome their opposition, as in Boise.⁴⁶⁸ In these jurisdictions, effective organization of housing supporters will be critical to reforms’ successful adoption, as organized support must overcome strong opposition.

463. See FISCHEL, *supra* note 8, at 277–78; Ellickson, *supra* note 1, at 400.

464. Hankinson, *supra* note 30, at 476.

465. Marble & Nall, *supra* note 155, at 1747 (stating that some of the roots of individuals’ ideologies, including altruism or religious and cultural beliefs, impact political attitudes); see generally Elisabeth R. Gerber & Justin H. Phillips, *Development Ballot Measures, Interest Group Endorsements, and the Political Geography of Growth Preferences*, 47 AM. J. POL. SCI. 625 (2003) (describing the role of growth interest groups in shaping attitudes about development).

466. See Michelman, *supra* note 149, at 149.

467. Habib Sabet, *Burlington City Council Passes Major Zoning Overhaul, Paving Way for More Housing*, VTDIGGER (Mar. 26, 2024), <http://vtdigger.org/2024/03/26/burlington-city-council-passes-major-zoning-overhaul-paving-way-for-more-housing> [https://perma.cc/UXB3-TDM8]; Cory Dockser, *Burlington’s New Zoning Sets City Up for More ‘Missing Middle’ Housing*, VT. PUB. (Mar. 29, 2024), <https://www.vermontpublic.org/local-news/2024-03-29/burlingtons-new-zoning-sets-city-up-for-more-missing-middle-housing> [https://perma.cc/5ZAX-G5BM].

468. See NEIGHBORS FOR BOISE, *supra* note 8.

Finally, the fourth jurisdiction type, a place with strong NIMBY forces and weak YIMBY forces, is the archetype homevoter jurisdiction. Jurisdictions that fit this description will likely avoid pro-housing reforms altogether, as there is little public consensus that new housing benefits the community.

Figure 1. Typology of Reform Hypotheses’ Intersection With Relative Strength of Pro- and Anti-Development Forces

| | <i>Weak YIMBY</i> | <i>Strong YIMBY</i> |
|---------------------|---|--|
| <i>Weak NIMBY</i> | <ul style="list-style-type: none"> • Susceptible to growth machine capture • May also rely on homeowner or renter self-interest | <ul style="list-style-type: none"> • Public interest drives reforms • May also rely on homeowner or renter self-interest |
| <i>Strong NIMBY</i> | [Non-reform jurisdictions] | <ul style="list-style-type: none"> • Effective collective action among housing supporters organized around public interest and homeowner or renter self-interest |

Thus, whether reformers are operating in a weak or strong, NIMBY or YIMBY environment will be important to if and how they achieve reforms.

2. Public-Interest Decision-Making’s Limits

The second observation from the hypotheses above is that, although public-interest arguments appear to have sparked several reforms to date, they are likely insufficient to achieve the across-the-board policy intervention necessary to address the housing crisis. Communal values pertaining to racial equality, wealth redistribution, and environmental sustainability have justified some reforms, yet these values do not serve the objective self-interest of many majority-white and majority-homeowner jurisdictions.⁴⁶⁹ Rather, they come about via ideology and altruism.⁴⁷⁰ Tellingly, reform jurisdictions where communal values featured prominently in public

469. Gilens & Thal, *supra* note 452, at 212–14.

470. *Id.*

discourse appear to be overwhelmingly supportive of Democratic candidates for national office.⁴⁷¹

Nevertheless, although conservatives may exhibit altruism, the values that have animated zoning reforms to date are not shared across the ideological spectrum.⁴⁷² For instance, Republican candidates for national office tend to espouse conservative values like limited government and deregulation rather than environmental sustainability, racial equality, or income redistribution.⁴⁷³ Even some political liberals subordinate these values to economic self-interest.⁴⁷⁴ To the extent that pro-housing positions are guided by social equity and environmental sustainability values, reformers will succeed only in the handful of jurisdictions whose electorates and public officials put these values above their own self-interest. Based on where reforms have been adopted to date, such communities are few in number; zoning reform based on these values seems unlikely to spread. Similarly, even if more conservative communities justified zoning reform based on deregulatory and property-rights values, such values may not have sufficiently broad appeal; little evidence suggests that conservative communities are adopting reforms.

Therefore, a more effective strategy for broadening reforms might be for advocates and policymakers to appeal to homeowner and renter self-interest in zoning reform legislation and advocacy. Because it cuts across the ideological spectrum, self-interest does not implicate moral or ideological values.⁴⁷⁵ Densely developed places tend to have higher land values but lower per-unit housing costs than less dense places.⁴⁷⁶ There are other ways that

471. See Alice Park et al., *An Extremely Detailed Map of the 2020 Election*, N.Y. TIMES (Feb. 2, 2021), <https://www.nytimes.com/interactive/2021/upshot/2020-election-map.html> (taking, for example, the strong results for President Joe Biden in Minneapolis, Boise, Berkeley, Iowa City, and other reform jurisdictions); Matthew Bloch et al., *An Extremely Detailed Map of the 2016 Presidential Election*, N.Y. TIMES (July 25, 2018), <https://www.nytimes.com/interactive/2018/upshot/election-2016-voting-precinct-maps.html>.

472. See Michael Manville, *Liberals and Housing: A Study in Ambivalence*, 33 HOUS. POL'Y DEBATE 844, 846 (2023). See generally Marilyn B. Brewer et al., *Parochial Altruism and Political Ideology*, 44 POL. PSYCH. 383 (2023) (discussing the differences between the altruistic behaviors of conservatives and liberals).

473. Compare, e.g., *2016 Republican Party Platform*, AM. PRESIDENCY PROJECT (July 18, 2016), <https://www.presidency.ucsb.edu/documents/2016-republican-party-platform> [https://perma.cc/DQR6-VYEM] with *2016 Democratic Party Platform*, AM. PRESIDENCY PROJECT (July 21, 2016), <https://www.presidency.ucsb.edu/documents/2016-democratic-party-platform> [https://perma.cc/G4AW-9Y7J].

474. Marble & Nall, *supra* note 155, at 1761.

475. *Id.*; Manville, *supra* note 472, at 845.

476. Hongwei Dong, *Higher Density Development for Lower Cost Housing? Understanding the Multifamily Housing Market and the Role of Density in Multifamily Home Prices*, 43 J. PLAN.

denser housing can enhance property values and quality-of-life, such as increased public transit usage or walkability that leads to reduced traffic congestion.⁴⁷⁷ Furthermore, in polling leading up to the 2024 U.S. presidential elections, a large share of Republicans and independents expressed concern about how housing prices would affect their family members’ and friends’ ability to live near them.⁴⁷⁸ If reformers can demonstrate to homeowners that their property values and quality of life would improve with more housing density, they may succeed in more ideologically heterogeneous places.

3. Opportunities for Additional Research

The third observation from the foregoing hypotheses is that additional research is required on two fronts. First, whether and to what extent these hypotheses accurately describe public motivations toward zoning reforms will be revealed only through quantitative and qualitative studies of local reforms. I intend to conduct these studies in future research. Such studies could evaluate, whether through surveys, interviews, or otherwise, why constituents and public officials support reforms and engage in public processes to adopt them. They could analyze comments offered in public hearings to understand community members’ stated reasons for their support. Future studies could also investigate the demographic characteristics of reform jurisdictions—and compare them to other places—to determine whether they predict a place’s susceptibility to adopt reforms. For example, knowing whether a jurisdiction with a higher proportion of renters is likelier to adopt reforms would offer more support for the “rentvoter” hypothesis. These analyses are an important next step in revealing how pro-housing reforms come together.

At this point, it seems unlikely that a single, unifying model can describe and predict these reforms. Local populations and localities are not monolithic. The various reasons behind voters’ and officials’ support for reforms reflects the idiosyncratic nature of local decision-making.⁴⁷⁹ Building a reform coalition often requires appealing to a broad range of people and interests. For instance, whereas one reformer might believe more affordable housing will provide a greater social benefit, irrespective of its effect on her home’s

EDUC. & RSCH. 617, 618 (2023); Glaeser & Ward, *supra* note 214, at 267 (observing that upzoning increases land values, but small multi-family units have lower per-unit costs than single-family homes).

477. See Gabbe, *supra* note 84, at 291.

478. Financial Times - Michigan Ross Nationwide April Survey, *supra* note 445.

479. *Id.*

value, another might expect economic return from the ability to construct an ADU in his backyard. Similarly, whereas one person might support reforms because she cares about affordable housing, another might support them because he cares about reducing his city's carbon footprint and dense housing aids in doing so. Future studies of reform jurisdictions' populations and ideologies will aid in telling the story of how reform coalitions arise and how they succeed in adopting zoning reforms.

The second area for additional exploration involves the application of these models to state-level zoning reforms. This Article focuses on local reforms because, as discussed in Part II, existing models for zoning decision-making concentrate most closely on local governments. There are good reasons to focus on local-level reforms. Local land-use control enjoys broad support, given that residents tend to know their local officials, and these officials often have better knowledge of local conditions than state or federal officials.⁴⁸⁰ Compared with state or federal control, local decision-making offers more opportunity for public participation and holding leaders to account, both of which are key ingredients to democratic governance and governmental legitimacy.⁴⁸¹ The relative geographic proximity of local governments to their constituents alone makes them more ripe venues for participation and increases officials' familiarity with local conditions.⁴⁸² Moreover, if states controlled land use, disaffected residents would have more limited exit options, given that interstate moves are usually more costly than interlocal ones.⁴⁸³ Finally, even deregulatory reforms at the state level typically leave some room for local rules, interpretations, procedures, and enforcement.⁴⁸⁴

Nevertheless, given that prevailing models of zoning decision-making predict local antipathy to new housing, and further, given that only a handful of cities have adopted reforms, there is reason to doubt local governments' capability to independently yet collectively address the housing crisis. If they cannot do so, states or even the federal government may have little choice but to preempt local regulation in favor of larger-scale solutions. Many scholars and others have already cast doubt on the adequacy of local responses and

480. See Pollack, *supra* note 176, at 714–15; Jerold S. Kayden, *National Land-Use Planning in America: Something Whose Time Has Never Come*, 3 WASH. U. J.L. & POL'Y 445, 452–53 (2000).

481. See, e.g., Pollack, *supra* note 176, at 716–18; Barry Friedman & Maria Ponomarenko, *Democratic Policing*, 90 N.Y.U. L. REV. 1827, 1841–42 (2015); Gerald E. Frug, *The City as a Legal Concept*, 93 HARV. L. REV. 1057, 1069 (1980); Rose, *supra* note 272, at 887.

482. See Kayden, *supra* note 480, at 451.

483. See Pollack, *supra* note 176, at 715.

484. See Rose, *supra* note 272, at 843.

called for preemptive action.⁴⁸⁵ Although there is at least some reason to believe that the same forces that motivate local officials’ zoning decisions exist at the state level, further analysis is needed to determine how those forces interact with state governments’ institutional design and political economy.

IV. CONCLUSION

There is no single, clear answer for *why* localities adopt zoning reforms to encourage more housing construction. Several forces interplay with one another to motivate local officials and their constituents to support more housing. The answer includes a combination of homeowner and renter self-interest, institutional design and collective action, and public interest decision-making features.

Nevertheless, understanding the forces that motivate successful reforms is of critical national importance. America is in the grip of a deep housing crisis. The consequences of failing to resolve it are severe—lost economic opportunity, increasing homelessness, a yawning racial wealth gap, environmental degradation. Increasing our housing supply is necessary to confront these problems, and zoning reform is an important piece of that response. By offering hypotheses for why communities support such reforms, this Article offers reformers and policymakers an initial, yet important road map for successful efforts to adopt them.

485. *E.g.*, Jerusalem Demsas, *Colorado’s Ingenious Idea for Solving the Housing Crisis*, ATLANTIC (May 25, 2023), <https://www.theatlantic.com/magazine/archive/2023/07/local-government-power-nimby-denver/674164> [<https://perma.cc/2UHF-AMQW>].