

**NEIGHBORHOOD PLANNING UNIT A
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NEIGHBORHOOD PLANNING UNIT Z**

October 8, 2021

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Re: 2021 CDP Update - Draft III

Dear Madam President, Honorable City Council Members and Commissioner Keane:

We write on behalf of our respective neighborhood planning units—a group that collectively represents 150 neighborhoods across Atlanta—to oppose Draft III of the 2021 update to Atlanta’s Comprehensive Development Plan (CDP). We strongly believe that this draft is contrary to the will of the community, that it is in direct conflict with both Atlanta City Design and the vision and policies of the 2016 CDP, and that the final 2021 update to the CDP must be limited, as the Department of City Planning (DCP) promised, to “only the required updates” in the interests of the future of our city and its residents.

I.

PLAN A IS CONTRARY TO THE WILL OF THE COMMUNITY

Comprehensive development planning is supposed to be a very public process in Georgia, actively involving the local community to be sure local comprehensive development plans embody the community's will and "reflect the full range of the community's need and values."¹ The late Mayor Maynard Jackson even set up the Neighborhood Planning Unit (NPU) system to assure that Atlanta residents had a way "to actively participate in the development of the Comprehensive Development Plan."

Although DCP conducted little public engagement on Plan A itself,² the community's voice on Plan A as the City's 2021 CDP update has nonetheless been loud and clear: The NPUs, neighborhood associations and residents who have commented on the Plan have virtually universally opposed it. And for its part, DCP has failed to address the community's concerns in any meaningful way.

A. Virtually 100 percent of community comment has opposed Plan A.

As the "official avenues" for resident participation in this process, multiple NPUs submitted letters, either individually or in concert, detailing major concerns with Plan A. To a one, these letters opposed DCP's proposed CDP update as written.³ Virtually all these letters also requested that the 2021 CDP update be cut it back to "only the required updates" (as DCP announced it would do at the CDHS public hearing in March).

In addition, Atlanta residents and individual neighborhood associations left hundreds of emails and recorded messages of opposition:

- Some 1000 recorded messages on the public comment line for the June CDHS public hearing in opposition to Draft I;
- Some 1100 emails in opposition to Draft II; and

¹ "Each element of the comprehensive plan must be prepared with opportunity for involvement and input from stakeholders and the general public, in order to ensure that the plan reflects the full range of community needs and values." DCA regulations Section 110-121-1.02(2) (emphasis added).

² DCP held three small meeting in June soon after Plan A was released as DCP's 2021 CDP update—when few Atlantans were aware of its existence, much less its content. DCP's prior meetings were more general in nature and inconsistently described its forthcoming CDP update. Its initial presentations in 2020 indicated that the update would institutionalize the *Atlanta City Design's* values and approach to growth, but at the March CDHS public hearing DCP announced it would "focus only on the required updates" instead. The document released in June did neither. It went well beyond the required updates, but failed to "institutionalize" either the *Atlanta City Design's* values or its approach to growth. To the best of our information and belief, DCP conducted engaged in no community engagement on the elements of the CDP update it proposed in June.

³ See Joint NPU A, B, C, G, and I letter dated August 26, 2021, NPU-A letter dated July 16, 2021, NPU-B letter dated August 25, 2021, NPU-E letter, NPU-Y letter dated September 26, 2021.

- Some 900 recorded messages on the public comment line for the September CDHS public hearing in opposition to Draft II.

We understand and believe that at least 1000 of the community emails submitted to the CDP comment address also asked that the 2021 be cut back to “only the required updates.”

To the best of our information and belief, *no* neighborhood or resident comment approved of the 2021 CDP as written. (We understand that the tiny handful that did not oppose it merely indicated approval for the Farokhi legislation, not the CDP update.)

That means that essentially **100 percent** of the community comments DCP received were in opposition to its Plan A update to the CDP, *with no neighborhood or resident arguing in its favor*. The overwhelming majority of community comments DCP received also sought for the 2021 CDP to be cut back to “only the required updates” as DCP announced.

B. DCP failed to address the community’s primary concerns in any meaningful way.

The community comments opposing Plan A raised many concerns,⁴ but there were three major ones: 1) Plan A’s failure to provide for the balancing of development with the preservation of our iconic tree canopy, our stable single-family neighborhoods and other things that, in DCP’s words, “make Atlanta great;” 2) Plan A’s failure to address infrastructure needs *before* actively seeking to more-than-double the city’s population; and 3) Plan A’s expansive, policy-changing scope—going well beyond DCP’s promise to limit it to “only the required updates” and without the community engagement changes of its scope require and deserve.

To date, DCP has failed to address *any* of these major concerns in any meaningful way:

1) Failing to balance growth with what we value.

This concern was discussed at length in the joint NPU A, B, C, G, and I letter dated August 26, as well as in the separate letters by NPU-B and NPU-Y and in the comments of many residents. Addressing this concern should have been easy. All DCP had to do was a) institutionalize *Atlanta City Design*’s Progress (“with Integrity”) value into the CDP (a value that expressly requires the balancing of growth that NPUs and residents have demanded), and b) incorporate the *Atlanta City Design*’s “growth area/conservation area” approach to development (an approach that graphically requires the “protection of people, places and other things we value” in development planning).

⁴ Because of the compressed timeline for responding to Draft I (and the inability to digest the huge quantity of information necessary for complete comment), the community comment on Draft I tended to focus on individual line items. In response, DCP did remove or amend some line items of concern, but those changes turned out to be largely ephemeral. For example, DCP deleted a provision in Plan A allowing ADU subdivisions, but literally days later it proposed legislation that *included* allowance for ADU subdivisions. Similarly, it removed a provision for citywide reductions in minimum lot size, but it said elsewhere that it would pursue that and other removed provisions in Phase 2 of Plan A and in the zoning code rewrite.

Indeed, DCP led stakeholders to believe that institutionalizing the *Atlanta City Design* was *exactly* what they planned to do from the outset of this process. In its very first presentation on the 2021 CDP update on September 29, 2020, DCP announced it would “Institutionalize *Atlanta City Design*’s vision, goals, and values for growth and development” into the 2021 CDP,⁵ as well as its growth area/conservation area approach to development. (See Plan A, Appendix II at page II-14 (“Community Goals” and “Land Use”).). DCP’s presentation to the Public Leadership Group on December 17, 2020 went even further and included graphics depicting the translation of the 2016 CDP’s “Character Areas” into “Growth Areas” and “Conservation Areas,” as well as examples of how those redesignations could change decision-making.⁶ On top of all that, multiple presentations, from September 20, 2020 through June 2021, included slides depicting the *Atlanta City Design*’s “Growth Area” with the legend, “Growth Areas will be designed to connect people and *accommodate growth*,” and depicting *Atlanta City Design*’s “Conservation Areas” with the legend, “Conservation Areas will be designed to connect nature and *protect other things we value*.” See, for example, Plan A, Appendix II, at p. II-42.

The version of Plan A released in June, however, turned out to be very different. DCP use a *different* description for “Growth Areas” (one that did *not* reference *their growth accommodation purpose*) and a *different* description for “Conservation Areas” (one that did *not* reference their *preservation purpose*). See Plan A at page 43. More importantly, DCP expressly **declined** to adopt the *Atlanta City Design*’s growth framework into Plan A—a framework that is absolutely **fundamental** to that design plan—saying dismissively that it merely “suggests additional design considerations.” Plan A at 42.

Whatever its motivation for these eleventh-hour changes, DCP has advanced no rational justification for them, nor has it advanced any justification for not addressing the NPUs’ and residents’ “failure-to-balance” concerns. Indeed, instead of simply doing what it said it was going to do at the outset of this process, it is now proceeding with a development plan that **directly conflicts** with *Atlanta City Design* and is also **directly contrary** to the manifest will of the community.

⁵ DCP included the same announcement in later presentations. See, for example, Appendix II at page II-60.

⁶ The presentation included two examples:

- “Example: The ACD categories help communicate where it is appropriate to locate ADUs” (adding a graphic showing that by applying *Atlanta City Design*’s growth/conservation approach to development, ADUs would be allowed in “Urban” and “Suburban” Conservation Areas, but not in “Rural” ones).
- “Example: References to TOD opportunity areas reflect policy/recommendations from the Atlanta Transportation Plan; however, further analysis may suggest that ACD ‘Corridor’ Areas will encompass the intent and purpose of TOD areas.”

Plan A, Appendix II at pp. 39-40. Note that these examples indicate that adopting the *Atlanta City Design*’s approach to growth not only would have disallowed DCP’s “citywide” allowance of ADUs, but also would have required DCP to rethink both its new Plan A transit-oriented development policy--which would increase density within a half-mile of transit, regardless whether the impacted property was in a “Growth” area or a “Conservation” one).

2) Putting the densification cart before the infrastructure horse.

Prioritizing major density increases without addressing current infrastructure needs and planning for future ones was a major concern discussed at length in the July 16, 2021 letter by NPU-A (attached as Exhibit 4), as well as in other NPU letters and many resident comments. In response, DCP said it “worked with stakeholder partners . . . to prioritize actions in the 2022-2026 Community Work Program.” However, as best we can tell, DCP made *no* changes to its Community Work Program, and more importantly, it made *no* effort to build infrastructure planning into its “densification strategy.”

In this regard, it is important to note—as Commissioner Keane explained at the September 27 meeting of City Council’s CDHS committee—that DCP’s “densification strategy” is *not* one of “managing” or “accommodating” Atlanta’s projected growth, as the express words of Plan A would lead one to believe. On the contrary, it is an *affirmative plan* to attract and build the City’s population to 1.2 million people—some *240 percent of Atlanta’s current population*. This “densification strategy” is also apparently an effort to attain that population level without any articulated plan to meet the infrastructure needs of the city’s current population of 498,700, much less those of the 700,000 people it wants to add.

When the City developed its current 2016 Comprehensive Development Plan—a fifteen-year plan (rather than a five-year update like Plan A)—the Atlanta community agreed that addressing traffic congestion and flooding were two of the highest ranked needs among *all* the community needs identified in that plan. And the community vociferously repeated those concerns in its comments on Plan A. Yet DCP nonetheless plans to proceed with Plan A as is—despite the express “will of the community” that the City address and fund Atlanta’s already dire infrastructure needs for our current 498,700 inhabitants *before* drawing in a population increase of over 700,000 more.

3) Failing to abide by its promise to confine the 2021 CDP to “only the required updates.”

This concern was discussed at length in the joint letter by NPUs A, B, C, G, and I dated August 26, 2021. We understand it was echoed by a thousand Atlanta residents in the comments submitted on Draft II. DCP responded by saying that it did in fact do what it said it was going to do, that Plan A is merely an “administrative” update and that it is consistent with both *Atlanta City Design* and the vision and values of the 2016 CDP.

Those assertions are manifestly untrue:

a) DCP announced at the March CDHS public hearing it would “focus only on the required updates this year.”

In the text of Plan A itself, DCP says that, after consulting with the Public Leadership Group, the Stakeholder Advisory Committee and the Technical Advisory Committee, it “decided to reset the comprehensive development planning process by *only focusing on the required updates this year* and beginning a more robust process in 2022.”

DCP goes on to say that it announced and explained that decision at the March 22, 2021, CDHS public hearing. See Plan A at page 32 (emphasis added). At that same hearing DCP also announced that “This Administrative Update will **NOT** . . . Change Future Land Use Map, Descriptions or Policies beyond the quarterly updates.” Plan A, Appendix II at page II-16. According to multiple NPU leaders, the limited scope of the 2021 update (“focused only on the required updates”) was also announced to APAB and in other communications.⁷

As we all now know, however, when Plan A was introduced just over two months later, it went far beyond the required updates. It included new citywide policies for character area development and multiple new character area, housing and other policies and priority changes—all plainly directed at the future land uses of many areas of the city and especially residential ones, many obviously driven by DCP’s “densification strategy.”

Moreover, a number of these new policies and other provisions were also obviously aimed at eliminating notions of the preservation of single-family residential neighborhoods, thus flying in the face of the 2016 CDP’s vision statement: “Atlanta *will* . . . Respect and maintain the character of the City’s residential neighborhoods and preserve single-family residential neighborhoods” and that “Atlanta *will* . . . Brand the City’s identity by preserving the unique character of established neighborhoods . . .” 2016 CDP at page 8 (emphasis added). And many of the new policies and priorities were also contrary to the 2016 CDP’s multiple policies aimed at preserving single-family neighborhoods and/or their stability, identity, character, historic character or eligibility for historic status or protection (whether local or otherwise). And they were plainly against “the will of the community,” given that the one of the highest ranked locally agreed “needs” among all need in the 2016 CDP was “Preserving single-family neighborhoods.”

DCP submits that the policies, goals and related provisions in Plan A are all somehow “required updates.” But that is patently not the case. DCA regulations clearly spell out which CDP elements are required to be updated (see Section 110-12-1-.03), and the following updates are the *only* ones required: 1) A locally agreed upon list of Needs and Opportunities;⁸ 2) Community Work Program;⁹ 3) Capital Improvements Element;¹⁰ 4) Land Use Element.¹¹ An update of the Community Goals element (which includes vision, goals, policies, and/or character areas and defining narrative) is expressly *not* required, nor are updates of the Broadband Services Element, the Transportation

⁷See, for example, email from Daniel Rice, Chair of NPU-O, to the CDP comment address, dated August 27, 2021.

⁸Section 110-12-1-.03(2). An update of this element may be met by drawing “needs and opportunities” provisions from the 2016 CDP. See section 110-12-1-.03. For the 2021 update, it will be legally necessary to use this option, since none of the “Needs and Opportunities” in Plan A have been “locally agreed upon”—which is a required part of this element.

⁹ Section 110-12-1-.03(3). An update of this element is included in Plan A’s Appendix I.

¹⁰Section 110-12-1-.03(5). An update of this element is included in Plan A’s Appendix I.

¹¹ Section 110-12-1-.03(7).

Element or the Housing Element.¹² The various other elements and narratives included in the text of Plan A are not required even for 15-years plans, so updates are not required by definition.

b) Plan A is obviously not an “administrative” update.

From the beginning, DCP promised that the 2021 update would be an “administrative” one, which—despite DCP’s efforts to define the word differently on its website—means “relating to the running of a business, organization, etc.” (Oxford English Dictionary.). An “administrative” update would thus *not* include new substantive policies, priority changes, policy directives mandating zoning amendments, or other substantive changes—and certainly not ones relating to planning initiatives and strategies that have never been approved by City Council (such as DCP’s controversial Housing Initiative and its even more controversial “densification strategy”). Plan A is filled with such substantive policies and changes.

c) Plan A did not “institutionalize” Atlanta City Design’s values and expressly declined to adopt its approach to growth.

From the outset, DCP promised that it would “institutionalize *Atlanta City Design*’s vision, goals and values for growth and development” and that it would “align” the CDP with “*Atlanta City Design*’s Growth and Conservation Areas.” Plan A, Appendix II at p. II-14. Plan A plainly does not do that, and indeed, it expressly *declined* to adopt *Atlanta City Design*’s Growth Areas/Conservation Areas development framework. Plan A at page 42.

Moreover, Plan A adopts policies for character area development, transit-oriented development and residential land use that are *directly contrary* to the values of *Atlanta City Design* and/or to its framework for development. And what is worse, Plan A’s extensive discussion of future land use (FLU) planning and its many new policies and priority changes for both character area development and the various character areas themselves give every impression that DCP intends to *keep* the current FLU/character area development approach indefinitely—or at least for the next five years. Given City Council’s incorporation of *Atlanta City Design* into the City Charter in 2017, we submit that adoption of a CDP update that would thus institutionalize the *current* development approach would be unlawful. And given that DCP has had almost four years to translate the current character areas designations into the Growth Areas and Conservation Areas, we also cannot help but wonder whether Plan A’s retention of the current development scheme is a deliberate effort to avoid the strictures *Atlanta City Design* would put on DCP’s “densification strategy.”

DCP’s various responses to the community’s concerns simply do not change the facts here. Given its announcement of the 2021 update’s reduced scope at the March public hearing (and in

¹² See sections 110-12-1-.03(1), 110-12-1-.03(4), 110-12-1-.03(8), and 110-12-1-.03(9) (each allowing updates “at local discretion” but not requiring them).

other communications to NPU leaders), proceeding with Plan A would be clearly contrary not only to its prior promises but to the will of the community.

II.

ADOPTION OF PLAN A WOULD BE UNLAWFUL AND A BREACH OF GOOD GOVERNANCE AND THE PUBLIC TRUST

We have previously set out our concerns that proceeding with Plan A would be a breach of the most basic considerations of good governance, public trust and fair play (see Joint Letter of NPUs A, B, C, G and I, attached as Exhibit 1), and we will not reiterate them here. We also believe that the Honorable Council Members who make up Atlanta’s City Council understand and appreciate that their adoption of Plan A would compound that breach.

We would further submit that there are other issues of law at play here as well. DCA regulations require that “*Each element* of the comprehensive plan must be prepared with opportunity for involvement and input from stakeholders and the general public, in order to ensure that the plan reflects the full range of community needs and values.” Section 110-12-1.02(2) (emphasis added). Despite this requirement, DCP is attempting to proceed with a CDP update on which it has conducted essentially *no* public engagement beyond three small meetings in mid-June—when few Atlantans were even aware of Plan A’s existence, much less its content—thus raising questions of its legal viability on this ground alone.

DCP is similarly attempting to proceed with a CDP update that has essentially *no* community support and thus one that could not possibly be said to “embody the articulated will of the community” or to “reflect [its] needs and values”—raising yet more questions as to the plan’s legal viability. And it is attempting to proceed with a CDP update that directly conflicts with *Atlanta City Design*, despite having had almost four years to conform its development planning to the design plan incorporated in the City Charter in 2017—raising questions as to the bona fides of DCP’s intentions.

We are at a pivotal point in Atlanta’s evolution. City Council is faced with a decision whether to move forward with a “densification strategy” that would more than double our city’s population *as a matter of choice*, one that would precipitate development in neighborhoods that neither want nor need it, pushing prices up and legacy residents out, exacerbating wealth inequality, destabilizing neighborhoods and further destroying the tree canopy that uniquely positions us to weather climate change, while weakening the NPU system and leaving declining neighborhoods still wanting. We submit that good governance, the rule of law and the restoration of the public trust demand that such a decision be shelved in favor of the “bare bones” CDP update the public has demanded—and that the future of Atlanta depends on it.

Sincerely,

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