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Crossing the Threshold of Urban Mobility and Redevelopment: Using Tax Allocation Districts to Develop the Atlanta Beltline

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INTRODUCTION

Jessica Gray spends nearly two hours per day commuting. In the morning, she drives for 30 minutes from her home in southern Gwinnett County to the Kensington MARTA station. Gray then takes a 20 minute train ride to Peachtree Center station. After eight hours of working at the Federal Trade Commission, she reverses the ritual to get home. Although Gray could just drive to work, she prefers to endure a one-hour commute each way than pay the expensive parking fees downtown. However, "[i]f it were nice, safe and affordable," she would not "mind living near a [transit] station."

The Atlanta Development Authority has envisioned a plan to deliver new housing and transportation options to the city. The proposed Beltline network of paths, parks, and commuter rail lines will include housing for 50,000 people along its 22-mile loop around Atlanta. It would concentrate the development of housing, office space, and retail outlets along twelve "nodes" within the inner city. Also known as the "Emerald Necklace," the Beltline would connect 46 city neighborhoods.

2. See id.
3. See id.
4. See id.
5. Id.
6. Id.
7. See Ryan Mahoney, City Unveils Details, Financing Plan for Beltline, ATLANTA BUS. CHRON., Sept. 9, 2005, at 2.
10. THE BELTLINE EMERALD NECKLACE: ATLANTA'S NEW PUBLIC REALM 3-4 (David Haskell ed. 2004) [hereinafter NECKLACE] (explaining Atlanta can create a '2,544-acre 'Beltline Emerald

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The Beltline allows Atlanta to combat urban sprawl while creating a new growth model to draw people and investment back into the inner city. Smart Growth relies on public subsidies to encourage compact development around transit centers in regions suffering from sprawl. Alternatively, "New Urbanism" reflects a shift in urban planning toward European-style "walkable, friendly streets" where neighborhood residents are able to walk on "traffic-calmed quiet narrow streets to neighborhood shops or schools." Both rely on public subsidies as the catalyst in fighting environmental decay and traffic congestion, while providing greater access to affordable housing and mobility.

Any massive redevelopment of Atlanta based on public subsidies would not be possible without the Georgia Redevelopment Powers Law (the "Act"), which grants counties and municipalities the power to create a Tax Allocation District (TAD). TADs are "a method for financing a redevelopment project." Based on an ad valorem property tax scheme, TADs allow political subdivisions to freeze property taxes in the district at the current rate. These political subdivisions can then sell bonds to immediately create funds for the proposed redevelopment project. When redevelopment increases property values, the extra taxes generated, above the frozen increment, are "pledged to service tax-exempt bonds when they mature."

Necklace—a 23-mile-long Beltline Trail connecting 46 neighborhoods to 11 existing, 4 expanded, and 9 new parks.

12. See id. at 48-49.
13. Id. at 61.
14. See id. at 72-73.
16. Randy Southerland, Anatomy of a TAD: Blighted Areas and Brownfields Become Bankable with Some Creative Tax Financing, ATLANTA BUS. CHRON., Sept. 2, 2005, at 2; see Daytona Beach, 484 So. 2d. at 15.
17. Id.
18. Supra note 17.
19. Id.
This Note advocates the adoption of the Beltline TAD in order to fight Atlanta's urban sprawl. Part I exposes Atlanta's extensive sprawl-related traffic congestion, pollution, and urban economic disparities. Part II outlines the Smart Growth and New Urbanism models for combating sprawl. Part III examines the benefits of the Beltline as an integrated Smart Growth–New Urbanism (“Smart Urbanism”) solution to sprawl. Part IV reviews the legislation behind the Georgia Redevelopment Powers Law. Part V highlights challenges to TAD funding. Finally, this Note concludes the Beltline TAD should be adopted without fear of being struck down.

I. NEW SOUTH, NEW SPRAWL: ATLANTA'S GROWING PAINS

A. Definition of Sprawl

Sprawl is random unplanned growth that creates "development outside of compact urban . . . centers," characterized by inadequate accessibility to essentials such as housing, jobs, and mass transit. Further, sprawl creates "automobile-dependant" new developments at the fringe of cities. Americans escaping urban congestion and industrial pollution to live in the suburbs fueled the inefficient sprawl plaguing many cities today. With the generally higher standard of living and government subsidization of single-family home loans, suburban sprawl flourished as some urban residents perceived better opportunities in distant suburban areas. Soon, as business hubs

20. See discussion infra Part I.
21. See discussion infra Part II.
22. See discussion infra Part III.
23. See discussion infra Part IV.
24. See discussion infra Part V.
25. See discussion infra Conclusion.
28. See id.
29. Id. at 566.
became decentralized and the government started financing new highways, suburban areas began to "dominate" inner cities and "extract middle-income workers and homeowners from the urban core." 30

Sprawl in Atlanta has its roots in the industrial expansion of the city following the Civil War. 31 This expansion allowed Atlanta to grow quickly and, by the 1960s, it emerged as the "commercial and financial center of the southeastern United States." 32 By the 1970s, however, an increasing number of city residents began to migrate to suburban areas. 33 As a flat, landlocked region with no natural boundaries to constrain growth, metro Atlanta continued to sprawl outward until it stretched 110 miles from north to south. 34 Population growth patterns confirm the increased sprawl of the last 35 years: while the metro-Atlanta region grew by 475,600 people between 1990 and 1997, the City of Atlanta captured less than 1% of the new arrivals. 35 Consequently, parts of Atlanta have been underdeveloped: 9% of the land parcels within the Beltline area are "unoccupied or merely partially occupied" while 10% "are in substandard, deteriorated, or dilapidated condition." 36

B. Sprawl-Related Problems

1. Traffic Congestion

Government funding for highway construction accelerated sprawl throughout the latter half of the 20th century. 37 Under the Interstate

31. See ATLANTA BELTLINE REDEVELOPMENT PLAN 7-8 (EDAW et al. eds., Draft ed. 2005) [hereinafter PLAN] (containing the general Beltline development plan prepared for the Atlanta Development Authority).
32. Bullard, supra note 30, at 943.
33. See id.
34. Id. at 942-44.
35. Id. at 944.
36. PLAN, supra note 31, at 23.
Highway Act of 1950, the federal government paid 90% of the construction and maintenance costs for new highways. With highways in place, suburban areas developed an edge over traditional urban living because people realized they could live farther from the city yet still have convenient access to downtown business districts. Traffic congestion on major highways soon followed. By 1990, "only five percent of rush hour commuters used public transit," while "73 percent drove alone." Traffic congestion lowers worker productivity because employees spend more time on the road and less time dealing with clients. Further, there is a public health concern with regard to widespread traffic congestion: longer commutes each day cause higher stress levels in employees.

2. High Pollution

Since sprawl creates automobile-dependant communities, the increase of traffic and miles traveled lead to higher vehicle emissions. Although automobiles emit far fewer pollutants than they did in the 1960s, the combined emissions from the large number of vehicles on the road have offset any improvements in air quality. The resulting air pollution threatens public health by increasing the likelihood of asthma and cancer development. Atlanta’s air pollution peaked in 1999 and has decreased slightly since.

38. Id. at 314.
39. See id. at 318.
41. Id.
42. Id. at 47.
43. See FRUMKIN ET AL., supra note 26, at 143. “[L]onger commutes predict more lost work days, more late arrivals at work, and higher employee turnover . . . .” Id. at 144.
44. See id. at 65 (tracing sequence of steps leading to poor health: “sprawl leads to more driving, which increases overall vehicle emissions, which degrades air quality, which threatens health”).
45. Id.
46. See id. at 66.
47. See Stacy Shelton, Atlanta’s Air Quality Improves, at Least for Now, ATLANTA J.-CONST., Oct. 4, 2004, at F1 (indicating increased rain showers have contributed to the air quality instead of lower vehicle emissions).
Atlanta continues to develop a reputation for heavy pollution, however, the region could lose 237,000 potential new jobs resulting in an initial loss of $1 billion per year in projected income.48

Minorities are at a higher risk of health-related problems caused by suburban sprawl.49 Higher income usually correlates with greater automobile ownership.50 Since "[h]igher incomes are generally associated with larger houses . . . [,] wealthier people tend to live in [suburban areas]."51 Living in suburban areas requires longer driving trips, which inevitably increase automobile emissions rates.52 Many of these suburban homeowners drive to downtown business districts for work: consequently increasing city pollution levels for urban dwellers.53 The pollution from city highway congestion negatively impacts "inner-city neighborhoods, while offering little benefit in return."54

3. Transportation Inequality

Transportation equality is part of the larger civil rights movement.55 Public transit is especially important to lower-income minorities—who usually do not own automobiles—because it connects them to hospitals, schools, municipal services, retail outlets, and employment centers.56 Over 54% of America’s public transit users are African-American or Latino.57 Compared to Caucasians,

49. Bullard, supra note 30, at 952 (discussing urban costs for Atlanta’s suburban sprawl).
50. FRUMKIN ET AL., supra note 26, at 67.
51. Id.
52. See supra text accompanying note 44.
53. See Bullard, supra note 30, at 962 ("[A] seven-lane freeway . . . [does not benefit] someone who does not even own a car. Low-income communities are severely impacted by road construction and . . . tailpipe pollutants.").
54. Id.
56. See id. at 1184, 1190.
57. Id. at 1190.
African-Americans are about six times more likely to take public transportation.\textsuperscript{58} In fact, people below the poverty level\textsuperscript{59} are about nine times less likely to own an automobile.\textsuperscript{60} Considering how sprawl encourages businesses to relocate from cities to suburban areas, lower-income minority urban dwellers are at a disadvantage because these areas are poorly served by public transit.\textsuperscript{61} Therefore, transportation inequities disproportionately harm lower-income minorities.\textsuperscript{62}

\section{II. SMART GROWTH AND NEW URBANISM DEFINED}

In order to effectively combat sprawl and related traffic, health, and transportation equity concerns, cities must become desirable locations to live again.\textsuperscript{63} To attract sustainable growth, urban centers must be reimagined as clusters of mixed-use development connected by efficient transportation alternatives.\textsuperscript{64} Smart Growth and New Urbanism are separate movements; each one advocates its own version of mixed-use development.\textsuperscript{65}

\subsection{A. Smart Growth}

Smart Growth is a response to years of unplanned and scattered sprawl.\textsuperscript{66} Sprawl inefficiently utilizes city infrastructure and public services such that some areas are overdeveloped at the cost of others.\textsuperscript{67} Instead of restraining growth, Smart Growth employs “more
efficient and compact urban development patterns. This compact urban development results in more efficient use of public services and more green space. By using infrastructure subsidies, tax incentives, and zoning powers, local governments can advance planned growth patterns and revitalization efforts. Further, under Smart Growth, the cornerstone to greater density is a comprehensive public transportation plan on a local and regional level. However, critics of Smart Growth claim local government restriction on sprawl could adversely affect the supply of affordable housing as seen in areas like New York, San Francisco, and Boston.

Georgia’s Peachtree City is a town developed by using Smart Growth principles such as expanded green space, walking trails, and smaller lots. Peachtree City developed a master plan that includes places for residents to “live, work, and play.” Using a network of asphalt paths and walking trails to keep pedestrians away from traditional vehicular traffic, “[r]esidents shop, dine out, enjoy performances at the amphitheater, walk along nature trails—and even play a round of golf—without first having to drive to these amenities in a car.” Even though Peachtree City is home to about 43 companies, many residents still commute an average of 34 minutes to Atlanta for work. Ironically, this commute causes air pollution and—without better access to public transportation—effectively

68. Griffith, supra note 27, at 568.
69. See FRUMKIN ET AL., supra note 26, at 204. Smart Growth principles aim to do the following:
   (1) Mix land uses. (2) Take advantage of compact building design. (3) Create a range of housing opportunities and choices. (4) Create walkable neighborhoods. (5) Foster distinctive, attractive communities with a strong sense of place. (6) Preserve open space, farmland, natural beauty, and critical environmental areas. (7) Strengthen and direct development toward existing communities. (8) Provide a range of transportation choices. (9) Makes development decisions predictable, fair and cost effective. (10) Encourage community and stakeholder collaboration in development decisions. Id.
70. Kushner, supra note 11, at 49.
71. See Griffith, supra note 27, at 570.
72. Kushner, supra note 11, at 50.
73. FRUMKIN ET AL., supra note 26, at 215.
74. See Anne Cowles, Peachtree City Grows Smart: At 40 Years Old, the Planned City Works, ATLANTA J.-CONST., Sept. 20, 1999, at B1.
75. Id.
76. Id.
77. See id.
renders Peachtree City part of the sprawl Smart Growth aims to control.78

B. New Urbanism

Unlike Smart Growth, the New Urbanism movement involves architectural elements.79 New Urbanism advocates building European-style developments that “foster[] a sense of community” and civic participation.80 Like Smart Growth—by focusing school, office, and retail development around residential neighborhoods—New Urbanism envisions decreased automobile dependence, lower energy consumption, reduced pollution, and lower costs for new infrastructure.81 These “pedestrian-oriented communities” double the density of suburban areas: from seven to fifteen homes per acre.82

Higher densities encourage town centers to develop within walking distance of housing developments.83 When this happens, architectural elements such as park-like walkways behind homes, expanded front porches, and narrower roads become possible.84 As roads narrow and more trees are planted on the main roads, parking capacity diminishes to a point where residents choose to walk or bicycle to local shops rather than drive.85 The pedestrian experience is enhanced by aesthetically pleasing storefront designs, benches for resting, and wide sidewalks.86

78. See supra Part I.B.2.; Kushner, supra note 11, at 53 (explaining scattered Smart Growth developments without regional public transit to connect them to employment centers actually generate more sprawl).
79. Kushner, supra note 40, at 65.
80. Kushner, supra note 11, at 61, 63.
81. Griffith, supra note 27, at 569.
83. See id. at 67.
84. See id.
85. id.
86. FRUMKIN ET AL., supra note 26, at 207.
III. THE BELTLINE: A CHAIN OF PARKS, TRANSIT, AND MIXED-USED DEVELOPMENT

The Beltline has the potential to transform Atlanta into a pedestrian-friendly city. In order to combat the sprawl that turned Atlanta into "the fastest-spreading human settlement in history," the Beltline seeks to enhance the city's quality of life by organizing future mixed-use development around public paths, transit, and parks along its loop around the city. In doing so, it presents itself as a Smart Urbanist approach to city planning. By converting 22 miles of underused or dormant rail corridors encircling downtown and Midtown Atlanta, the Beltline forms a unified "framework for long-term sustainability."

A. One Continuous Chain of Parks and Trails

Atlanta has one of the lowest city area-to-parkland ratios in the United States. For every one thousand residents, it only offers 7.8 acres of parkland: less than half of the national average. In order to remedy this situation, the Beltline proposes to add 1,401 acres of new and expanded parkland, connected with one circular trail. Currently, vacant lots and blighted apartments line parts of the Beltline where

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87. See PLAN, supra note 31, at 1.
89. PLAN, supra note 31, at 1, 5.
90. See discussion infra Part III.A-C.
91. PLAN, supra note 31, at 5 (offering various mobility choices, economic investment in underdeveloped urban neighborhoods, "better air quality and improved public health," reuse of brownfields, affordable workforce housing, "socially vibrant hubs of missed use activity," new parks, and the protection of the industrial architectural character of the adjacent neighborhoods). See also Patrik Jonsson, Atlanta Strings a New 'Emerald Necklace,' CHRISTIAN SCI. MONITOR, Jan. 27, 2005, at 3 ("There's really no other city in the country that has this opportunity to build a brand-new park system out of an underutilized infrastructure.").
92. See NECKLACE, supra note 10, at 2 (featuring a city area of 84,316 acres but only 3,235 acres are for parkland, or 3.8%).
93. Id. at 1.
94. See id., at Executive Summary (developing, among other parkland extensions, Piedmont Park from 185 to 217 acres and Maddox Park from 54 to 114 acres, while creating 434-acre Bellwood Lake and 204-acre Waterworks Park).
this parkland might eventually be situated. The Trust for Public Land (the “Trust”), a national land conservation group, is already spending $1 million per acre to acquire the land for the proposed city parks. The Trust is acting as a middleman by investing in this land now to preserve it from being “converted for other uses.” It is critical to the project that the parkland forms a continuous, unified system of parks—an “Emerald Necklace”—instead of scattered open spaces in order to ensure each community receives comparable benefits from the project.

B. A New Transit System

Atlanta’s existing rail system is unique in that it falls within the city limits and can be integrated successfully with existing public transit and future mixed-use development. Between the 1880s and 1930s, a system of commercial rail lines developed around downtown and Midtown Atlanta in order to service the industries at the outside edge of the city. Today, these segments form a “conspicuous void” and allow for a new passenger-oriented system that connects 46 city neighborhoods to each other and to existing MARTA rail lines.

95. Id. at 11.
96. Stacy Shelton, Group Pays Millions for Parkland: 39 Acres Pursued; More Sites in Works, ATLANTA J.-CONST., Oct. 9, 2005, at A1 (stating land is to be used for parkland).
97. Id. (discussing how the Trust is now “buying at [its] risk” to ensure a continuous chain of parkland and hoping the city will later reimburse it after passing the TAD).
98. See NECKLACE, supra note 10, at 11-12, 51 (referring to the building of a continuous park system “as grand and far-reaching a task as the development of... Central Park in New York City”).
99. Id. at 6-7, 11 (comparing Atlanta’s dormant Beltline rail lines to converted rail lines in other cities, which required substantial support to integrate them into the existing public transportation system or were too far outside of the city center to be an desirable source of transit for commuters).
100. See id. at 6.
101. Id.
102. Id. at 4.
103. See id. at 11, 74 (crossing the MARTA lines between West End and Oakland City stations in the south, Bankhead and Ashby stations in the west, King Memorial and Inman Park stations in the east, and Lindbergh Center Station in the north and requiring three new MARTA stations to be built to accommodate the Beltline system).
The Beltline transit corridor will improve access to the MARTA rail system. Currently, the MARTA rail system carries 143,000 commuters per day: only 15% of the city's working population. Many urban dwellers that do not live within walking distance of a MARTA station opt to drive instead of taking public transportation; even though it is more expensive. Eventually, the Beltline will connect 137,361 residents that live within a half mile of its transit corridor—about 30% of the Atlanta's population—to MARTA. Further, 50,000 people are expected to live directly adjacent to one of the planned 43 Beltline transit stations, including about 10,200 Atlanta Public School students.

However, a panel of transportation experts suggested some of the proposed segments would not have sufficient ridership to justify trains. The main criticism is the Beltline itself does not connect people to where they work: downtown, Midtown, and Buckhead. However, that position fails to account for the transit system as an interconnected whole, including the MARTA rail system that already services the business districts. Despite the findings of the report, however, the experts supported the development of the Beltline because it would "greatly improve the city's quality of life." Further, the report only considered ridership estimations based on the current population: not the population of the Beltline completion year.

104. See NECKLACE, supra note 10, at 20.
105. Id.
106. See generally id. (increasing air pollution, congestion, and energy consumption within the city).
107. Id. at 22.
108. Paul Donsky, Schools Evaluate Beltline: Tax District Could Shift Funds, ATLANTA J.-CONST., Sept. 15, 2005, at JN4. See also NECKLACE, supra note 10, at 22 ("[T]he population of residents living within a five-minute walk from the beltline will increase by as much as 30% in the next 25 years.").
109. INNER CORE, supra note 59, at 2-5.
110. See Donsky, supra note 108, at 4JN (helping to decrease the number of cars and buses carry children to school on city streets).
112. See id.
113. See INNER CORE, supra note 59, at B-1 (connecting the Beltline to the MARTA system).
114. Donsky, supra note 111, at E1.
Ultimately, MARTA should see a boost in ridership thanks to the influx of passengers from the interconnected Beltline system.\footnote{Id. (stating future "[r]esidential and commercial development on the Beltline will create enough demand to run transit along the entire route").}

\textbf{C. The Beltline's Approach to Mixed-Use Developments as Smart Urbanism}

The Beltline proposal's emphasis on using trails and transit to connect mixed-use developments to recreational and business locales reflect both Smart Growth and New Urbanist planning.\footnote{See discussion supra Part II.} This hybrid Smart Urbanist approach will redevelop neighborhoods within the Beltline into a home for "hip, young, single, and ecologically aware" residents.\footnote{See Jonsson, supra note 91, at 3.} Many of the major developers are "declar[ing] an end to the days of the 'half-acre, swing set and a dog' residential standard in Atlanta and moving toward a European-style city where urban dwellers "live over shops, travel frequently by transit and share public recreational areas."\footnote{Julie B. Hairston, \textit{Bullish on the Beltline: Proposed Intown Loop Seen as $1.4 Billion Economic Engine}, ATLANTA J.-CONST., Jan. 19, 2005, at B1.}

As a Smart Growth model, the Beltline proposal spreads public services equally among all areas within its vicinity: no quadrant is favored over another.\footnote{See Kushner, supra note 40, at 63; NECKLACE supra note 10, at 12 (stressing the importance of a continuous park system connected by a continuous trail system in order to ensure community equality between the wealthy Northeast quadrant and the lower-income Northwest, Southeast, and Southwest quadrants).} Instead of restraining growth, the Beltline TAD both encourages and depends on it.\footnote{See discussion infra Part IV.} The proposal channels growth into efficient, higher density, and compact urban clusters along the Beltline's transit corridor to correct the scattered and
random growth of sprawl.\textsuperscript{122} Most importantly, the Beltline includes a comprehensive public transportation plan—including public transit and pedestrian trails—that connects each community to public services and employment opportunities.\textsuperscript{123} Therefore, lower-income residents within Atlanta will have greater access to the rest of the city, including employment opportunities and entertainment venues.\textsuperscript{124}

Reflecting the basic tenets of New Urbanism,\textsuperscript{125} the Beltline emphasizes uniform architectural elements along each of its segments.\textsuperscript{126} Further, the development plan encourages designing buildings that foster community and promote the heritage of the surrounding neighborhoods.\textsuperscript{127} By focusing school, business, and retail development around residential neighborhoods, the Beltline allows Atlanta to decrease its automobile dependence and reduce air pollution.\textsuperscript{128} With fewer automobiles on the highway, the air quality will increase and eventually lead to better overall health for all regional residents.\textsuperscript{129} This cleaner, more attractive belt of redevelopment around the city will create pedestrian-oriented communities.\textsuperscript{130} When suburban residents move into these communities, they will have a vested interest in city politics, urban

\textsuperscript{122} See \textit{Atlanta Beltline Development Guidelines: Exhibit C} 3 (EDA W et al. eds., Draft ed. 2005) [hereinafter GUIDELINES] (encouraging higher density along the transit corridor as one of the overall purposes of the Beltline).
\textsuperscript{123} See Mahoney, supra note 7, at 2.
\textsuperscript{124} See generally \textit{Plan}, supra note 31 (emphasizing the city-wide impact of between transportation options with Atlanta). See generally Lewyn, supra note 37 (discussing the political and economic impact of urban sprawl as it relates to a number of factors, including lower-income urban dwellers).
\textsuperscript{125} See Kushner, supra note 40, at 65 ("New Urbanism reflects both a planning and an architectural vision.").
\textsuperscript{126} See GUIDELINES, supra note 122, at 1 ("Compatibility with the guidelines is intended to promote a more unified identity, a more functional environment, and a greater economic impact . . . than would otherwise be realized through a series of individual projects.").
\textsuperscript{127} See GUIDELINES, supra note 122, at 16-17 ("[N]ew development should reference forms and materials that support the rail heritage of the corridors [and] link . . . the trails and transit to the architecture of the buildings.").
\textsuperscript{128} See Frumkin et al., supra note 26, at 77 (stating sprawl alternatives, like New Urbanism, "offer a way to reduce air pollution exposure" and automobile dependence).
\textsuperscript{129} Id.
\textsuperscript{130} See GUIDELINES, supra note 122, at 2 ("The BeltLine seeks to link development, transit and trails, and greenspace in ways that transform existing in-town areas into vibrant, mixed use, and pedestrian-friendly urban environments.").
renewal, and public school quality; so their active involvement in the community should increase.\footnote{131} Before any of these improvements can be realized, Atlanta’s city leaders must decide how to finance the Beltline project.\footnote{132}

IV. FUNDING THE BELTLINE THROUGH THE GEORGIA REDEVELOPMENT POWERS LAW

Atlanta city officials plan to use a tax allocation district to fund the Beltline redevelopment project.\footnote{133} A TAD acts as a financing tool for local governments: attracting private investment into blighted areas.\footnote{134} Known as “tax increment financing” in the rest of the nation,\footnote{135} TADs utilize the proceeds from municipal bonds to make capital improvements to a designated district.\footnote{136} Using an ad valorem property tax scheme,\footnote{137} TADs allow political subdivisions to freeze property taxes within the boundaries of the district at the current rate.\footnote{138} Once the improvements are in place, private enterprises move into the area and create economic activity to help stimulate the local economy.\footnote{139} The increased property taxes generated are used to reimburse the original bonds at their maturity date.\footnote{140} TADs are

\footnote{131. Cf. Kushner, supra note 40, at 50-51 (theorizing that individuals become less involved in civic affairs when they move to the suburbs).}

\footnote{132. See discussion infra Part IV.}

\footnote{133. See Plan, supra note 31, at 2 (highlighting the need for a TAD to encourage redevelopment of blighted areas within the Beltline region).}

\footnote{134. See Frank S. London, Note, The Use of Tax Increment Financing to Attract Private Investment and Generate Redevelopment in Virginia, 20 VA. TAX REV. 777, 778 (2001) (explaining TIFs and how they can be used to encourage local redevelopment of blighted areas).}

\footnote{135. Southerland, supra note 18, at 2.}


\footnote{137. See O.C.G.A. § 36-44-9(a) (2005).}

\footnote{138. See discussion infra Part IV.A.4.}

\footnote{139. See generally O.C.G.A. § 36-44-4 (2005) (allowing local governments to easily justify the public financing of redevelopment that otherwise might be subject to private investment by not requiring a “but for” test). See also Peddle, supra note 136, at 444 (encouraging local governments to redevelop “blighted property that would not be subject to private sector investment . . . ‘but for’ the intervention of the government”).}

\footnote{140. See Southerland, supra note 17, at 2 ("Local governments find TADs attractive because they allow them to generate money to kick-start development . . . without dipping into current funds.").}
popular with local government officials; there is "a double benefit for the community because they have the development and eventually the TAD burns off—and the increase in tax goes back to the taxing agency." 141

A. Provisions

1. Definitions

Under the Act, a "tax allocation district" is a "contiguous geographic area within a redevelopment area," which is created by resolution of a local legislative body. 142 A "redevelopment area" is an urbanized zone where most of the structures are, among other things "deteriorated," "underutilized," or "substantially impair[... the sound growth of the community." 143 Further, a "redevelopment" is considered any project necessary to developing or revitalizing an area in order to combat blight, establish mass transit, improve pedestrian access, or increase the value of the property. 144 Such redevelopments may include a broad range of plans that target the alleviation of blight: including the acquisition of land 145 and renovation of historical structures. 146 The local legislative body designates a "redevelopment agency" (the "Agency") to redevelop a target area. 147 The Agency proposes a "redevelopment plan" that, among other things, specifies the boundaries of the TAD, explains the project's need, provides the vision, calculates the costs, establishes the area's current tax base, and projects future increases to property value. 148

141. Id.
143. Id. § 36-44-3(7)(A)-(B), (E).
144. Id. § 36-44-3(5)(G), (I)-(J) (2005).
145. Id. § 36-44-3(5)(K).
146. Id. § 36-44-3(5)(E).
147. Id. § 36-44-3(6); § 36-44-4 (giving the local government the power to create a redevelopment agency).
2. Purpose, Construction, and Powers

The legislative purpose underlying the Act is "to improve economic and social conditions" that "deleterious[ly]" affect "health, safety, morals, and welfare."\(^{149}\) In order to encourage an "effective partnership with private enterprise to overcome economic limitations," the Georgia General Assembly decided the Redevelopment Powers Law\(^{150}\) should be "liberally construed" by the courts.\(^{151}\) After its designation,\(^{152}\) the Agency may exercise its enumerated powers in order to effectuate the redevelopment plan (the "Plan")—the designation of TAD boundaries, issuance of bonds, and execution of contracts.\(^{153}\)

3. Creation of the TAD

There are four steps the redevelopment agency must follow to create a TAD.\(^{154}\) First, the Agency must prepare a Plan for the proposed TAD.\(^{155}\) Second, the Plan must be submitted to the local legislative body.\(^{156}\) Third, the local legislative body (city) must adopt the Plan by resolution.\(^{157}\) If the city has an independent school system, the board of education must separately approve a resolution creating the TAD.\(^{158}\) Further, a "[c]ounty ad valorem property tax[] may be included in the computation of tax allocation increments" if the Plan is approved by the county board of supervisors.\(^{159}\) This resolution must include the TAD boundary, creation date, estimated tax allocation increment base, a finding that area would not be redeveloped by private enterprise without the Plan, and a finding that

149. *Id.* § 36-44-2.
150. *See id.* § 36-44-1.
151. *Id.* § 36-44-2.
152. *See id.* § 36-44-4 (authorizing the designation of a redevelopment agency).
153. *Id.* § 36-44-5(a)(1)-(9) (defining other powers: preparing plans, creating TADs, depositing money into special funds, acquiring land, and disposing of land).
155. *Id.* § 36-44-8(1).
156. *Id.* § 36-44-8(2).
157. *Id.* § 36-44-8(3).
158. *See id.* § 36-44-9(a).
159. *Id.* § 36-44-9(b).
“[t]he improvement to the area is likely to enhance the value” of the district. Finally, a “certified copy” of the Plan must be submitted to the legislative body “whose area of operation will include the tax allocation district.”

4. Computation of Tax Allocation Increments and Increment Base

After approval by the local legislative body, the tax allocation increment is calculated by totaling all ad valorem property taxes levied within the TAD. Once the TAD is approved by all applicable legislative bodies, but before it is created, the Agency must submit a written request to the state revenue commissioner for a determination of the TAD base. This base is a pre-redevelopment property tax figure that, once established, is used to determine the total future tax increments over and above this amount. As revenue is collected from positive tax allocation increments, they are placed in “special funds” that serve as an account to pay redevelopment costs. In fact, the TAD cannot be terminated until all redevelopment costs have been paid.

5. Bonds

Tax allocation bonds are issued in order to raise funds for the initial costs of redevelopment. These bonds are negotiable instruments, tax-exempt, and are “payable solely from the property
pledged” in the TAD.\textsuperscript{168} In order to “increase the security and marketability” of the bonds, the Act empowers the local legislative body to create liens on any public improvement in the TAD.\textsuperscript{169} However, these bonds must mature no later than 30 years from their creation date,\textsuperscript{170} and may not exceed the “estimated aggregated redevelopment costs” within the TAD.\textsuperscript{171} In addition to bonds, the Agency may take out loans from financial institutions.\textsuperscript{172}

B. Applicability to the Beltline

In order to use the Redevelopment Powers Law, the Atlanta City Council must qualify the Beltline area as economically and socially depressed.\textsuperscript{173} Under the Act, any area will be qualified for redevelopment if it is “substantially underutilized by containing open lots,” inadequate open spaces, substandard structures, lowly valued structures, or sound growth opportunities.\textsuperscript{174} Currently, 9\% of the land area within the TAD is either partially or completely unoccupied, 10\% is in “substandard, deteriorated or dilapidated condition,” and 2\% of the land is made up of open lots.\textsuperscript{175} These large and irregularly shaped industrial lots constrain mobility because of discontinuous street access and pedestrian walkways.\textsuperscript{176} However, if the Beltline is redeveloped, it will simultaneously correct street design by reshaping these industrial “super blocks” and improve public transit service by connecting commuters to at least five MARTA stations.\textsuperscript{177}

\begin{footnotesize}
\begin{itemize}
  \item 168. \textit{Id.} \textsuperscript{a} § 36-44-14(a), -14(c).
  \item 169. \textit{Id.} \textsuperscript{a} § 36-44-14(d)(1)-(2) (allowing the legislative body to also establish “covenants and do any and all acts not inconsistent with the Constitution or this chapter as may be necessary” to further secure the TAD bonds).
  \item 170. \textit{Id.} § 36-44-14(e) (binding the members of the legislative body and their successors).
  \item 171. \textit{O.C.G.A.} § 36-44-14(g) (2005).
  \item 172. \textit{Id.} § 36-44-16 (“[C]ontractual obligations incurred . . . pursuant to this Code section shall not constitute debt within the meaning of Article IX, Section V of the Constitution.”).
  \item 173. \textit{See discussion supra} Part IV.A.2.
  \item 175. \textit{PLAN, supra} note 31, at 23.
  \item 176. \textit{See id.} at 23.
  \item 177. \textit{See id.} at 26 (including bicycle and pedestrian accessible trails).
\end{itemize}
\end{footnotesize}
Further, the Beltline alleviates environmental depressions with its TAD. It adds 1,900 acres of parkland to a city with very little greenspace—just 3,235 acres—compared to other major cities of the same size. The Beltline Plan also seeks to preserve and restore historic industrial and Civil War era landscapes and architecture along its 22-mile loop. Taken in conjunction with the brownfields scattered throughout the Beltline—requiring rehabilitation before any redevelopment can occur—the foregoing factors "constitute an interrelated and comprehensive series of infrastructure[al] . . . and environmental issues" that meet the Act’s guidelines for using TAD funding.

1. Cost

The TAD "could generate $1.3 to $1.7 billion in bonds for the Beltline project." Pursuant to the Act, these funds will be used to pay the associated redevelopment costs. First, the Plan estimates a total cost of $70 million for rail right-of-way acquisition and another $200-300 million for parkland acquisition. Second, design and construction of the greenways and parkland will cost $250-285 million. Third, the mass transit construction will total $600 million to $1 billion; however the federal government is expected to fund half of this expenditure under its New Starts urban funding program.

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178. See id. at 26, 29.
179. Id. at 26.
180. See NECKLACE, supra note 10, at 2 (showing Atlanta has about 85,000 total acres, but devotes only 3.8% of its city area to parkland while Detroit, Wichita, and Philadelphia devote 6.6%, 7.8%, and 12.3%, respectively).
181. See PLAN, supra note 31, at 29.
182. See id.
184. ATLANTA BELTLINE: TAX ALLOCATION DISTRICT (TAD) FEASIBILITY STUDY 4 (EDAW et al. eds., 2005) [hereinafter DISTRICT] (resulting in "37,500 new permanent jobs and 48,000 one-year construction jobs," "28,000 new residential units . . . including 5,600 new workforce housing units," "2.4 million square feet of new retail space," "5.3 million square feet of new office space," "1.3 million square feet of new light industrial space," and "1,400 new acres of parks and green space").
185. See O.C.G.A. § 36-44-14(a).
186. DISTRICT, supra note 184, at 29.
187. See id.

program. Lastly, the workforce housing, Atlanta public school construction project, and overall development infrastructure will cost $250 million, $30-$40 million, and $308 million, respectively.

2. Tax Increment and Tax Base

The City of Atlanta, Atlanta Public School System, and Fulton County must all approve the TAD before a tax base is determined. The redevelopment area was valued at $470,295,430.00 in 2004. By 2005, the Fulton County Tax Assessor estimated a 1.4% growth rate within the city of Atlanta as a whole, including the TAD: yielding approximately $19.6 billion increase in property values over the next 25 years. This increase would result in a tax allocation increment of $7.87 billion for the amount certified in 2004. Considering these figures, the city would be able to support a $1.7 billion TAD.

V. CHALLENGES TO THE GEORGIA REDEVELOPMENT POWERS LAW

A. No "But-For" Test

A "but for" test examines the necessity of using a TAD. This test limits local governments to redevelopment projects involving "blighted property that would not be subject to private sector investment . . . 'but for' the intervention of the government." Georgia's Redevelopment Powers Law, however, does not use a "but
for" test and, therefore, shifts the risks of redevelopment from the private sector to local citizens. Without a strong "but for" test, Georgians are at "serious risk" because property tax increases that are "directed towards a redevelopment project . . . may or may not succeed in attracting private investment." In fact, private development may even proceed without TAD-subsidized public investment if given enough time. Further, if TADs are used frivolously, developers begin to "shop around for the best economic climate, creating an unseemly competition between desperate cities." The "but for" test is a practical tool that helps local officials carefully consider the prudence of using a TAD before committing public funds to a risky project.

B. Increased Spending for City Services

Any new development created using a TAD may lead to an increased demand for public services. City officials are already expecting a $275 million increase in city expenses resulting from the Beltline redevelopment. These expenses will be taken out of the city budget and be allocated to the operational costs of new public facilities and services. Such costs are incurred by all Atlanta’s citizens, even though the benefits will only be received by those

197. See O.C.G.A. § 36-44-8(3)(G)(i) ("The redevelopment area on the whole has not been subject to growth and development through private enterprise and would not reasonably be anticipated to be developed without the approval of the redevelopment plan . . . ").
198. See London, supra note 134, at 806 (expressing such tax money could be used for other public services).
199. See id.
201. Id.
203. Id.
205. See id. (discussing how funds generated from the TAD can only be used for capital expenses, such as purchasing parkland and building transit lines).
living inside the district.\textsuperscript{207} However, it is "unlikely residents [will] notice the drain on [the] city budget" since it has grown by about 2% per year.\textsuperscript{208}

C. Low Voter Accountability

In Georgia, TADs can be created without the approval of the voters.\textsuperscript{209} Without voter approval, local officials are allowed to allocate property taxes to services voters may not want.\textsuperscript{210} Considering there is no "but for" standard used in Georgia when determining the need for a TAD,\textsuperscript{211} local officials could manipulate the definition of blight in areas that may not truly be blighted for political purposes.\textsuperscript{212} In fact, critics blasted Beltline proponents for not presenting the proposal to any neighborhood planning units ("NPUs") before moving ahead with the project.\textsuperscript{213} In addition to the Atlanta Planning Advisory Board, NPUs represent voters and advise city officials on important local issues.\textsuperscript{214}

The Georgia General Assembly may have anticipated abuse of the TAD financing instrument when it created a debt limitation rule within the Act.\textsuperscript{215} Under the Act, a maximum of 10% of a city's tax base may be used to create TADs, thereby limiting frivolous use by local officials.\textsuperscript{216} Further, local officials have political limitations to over-usage of TADs.\textsuperscript{217} If development is popular, politicians will be

\textsuperscript{207} See Donsky, supra note 108, at JN4 (noting 50,000 additional people are "expected to live along the redeveloped rail lines," while 51,000 students will attend schools "located within a half-mile of the Beltline").

\textsuperscript{208} Tagami, supra note 204, at E10 (estimating an additional $46 million collected for property taxes in 26 years and breaking even five years later).

\textsuperscript{209} See O.C.G.A. § 36-44-8(3) (2005) (empowering the legislative body to create TADs).

\textsuperscript{210} See London, supra note 134, at 810-11 (calling the measure "Taxation Without Representation").

\textsuperscript{211} See discussion supra Part V.A.

\textsuperscript{212} See London, supra note 134, at 811.

\textsuperscript{213} David Pendered, Beltline Meeting Sees Few Attend: Project to Raise Nearly $2 Billion, ATLANTA J.-CONST., Nov. 10, 2005, at JN1 ("The consensus across the board ... was enormous regret and irritation that the NPU system was bypassed and that in order to participate in this citywide review, they had to aggressively insert themselves into it, as opposed to having the normal protocols followed.").

\textsuperscript{214} See id.

\textsuperscript{215} See O.C.G.A. § 33-44-17 (2005).

\textsuperscript{216} See id § 33-44-17.

\textsuperscript{217} See London, supra note 134, at 812.
more likely to explain the issues behind the tax scheme to voters; whereas if the project is unpopular, politicians will avoid it all together. At minimum, to ensure some accountability, the General Assembly should consider amending the Act to include a public hearing requirement.

D. Enabling Gentrification

Gentrification describes a situation where lower-income minority urban dwellers are indirectly forced out of underdeveloped neighborhoods as these areas become "revitalized" by wealthy newcomers. The Beltline's entire funding scheme is based on creating a "circle of privilege" within the inner city. The Beltline TAD relies on increases to property taxes in order to service the redevelopment bonds at their maturity. Property values are positively correlated with increases to these property taxes. These rising property values could push poor African-Americans out of the inner city unless a new source of affordable housing is developed. As one critic noted, to increase property taxes, the Beltline Plan acts as a "tourist-orientated marketing campaign" to attract wealthy suburban residents into the city.

218. See id.
219. See id. (discussing how there should be notice of the hearing and it should "include details of the proposed project" because "[e]ven if a small number of citizens actually attend . . . members of the media will likely be there to report on the proposed plans [and then] voters will probably have plenty of information on which to judge their elected officials' [TAD-related] decisions").
220. Bus. Ass'n of Univ. City v. Landrieu, 660 F.2d 867, 874 n.8 (1981) ("Gentrification is a deceptive term which masks the dire consequences that "upgrading" of neighborhoods causes when the neighborhood becomes too expensive for either rental or purchase by the less affluent residents who bear the brunt of the change.").
222. See Southerland, supra note 18, at 2.
223. See PLAN, supra note 31, at 83.
224. See id.
225. See Jarvie, supra note 221, at 8A (stating Robert Bullard is "skeptical of the Beltline's claim to link neighborhoods and foster diversity" because it shifts attention away from the "devastation of MARTA" and puts it on a "sexy new transit system" that does not help "transport poor African Americans without cars"); but see INNER CORE, supra note 59, at 3-4 (combining "connectivity to
In 1999, impoverished minorities living in Baltimore’s West Side faced a similar gentrification threat when the city council voted to redevelop an 18-block retail district.\(^{226}\) Baltimore’s $350 million plan displaced 100 minority-owned small businesses to make way for new attractions.\(^{227}\) Many residents felt this project was merely a way of “sprucing-up” old urban neighborhoods to create appeal for “wealthy, young, mainly white professionals.”\(^ {228}\) Although this redevelopment included plans for expansive retail space, a theater renovation, and 2,000 new housing units, no provisions were included to sustain the minority residents.\(^ {229}\) Like Atlanta,\(^ {230}\) Baltimore’s African-American political leaders strongly supported the redevelopment plan.\(^ {231}\) Proponents of Baltimore’s plan, however, conceded some gentrification was a necessary trade-off to ensure sustainable inner-city redevelopment.\(^ {232}\)

To combat gentrification, the Beltline Plan seeks to distribute growth evenly throughout its redevelopment area.\(^ {233}\) Specifically, the TAD legislation sets aside 15% of all bond proceeds for affordable housing.\(^ {234}\) These funds will be directed at acquiring land and constructing homes for families at the lower 40% of the earnings spectrum.\(^ {235}\) In addition to affordable housing, the TAD legislation includes a provision that requires developers who receive TAD funds

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227. Id.
228. Id.
229. See id. (indicating some residents considered the redevelopment to be a “yuppification” of their historic district).
230. See Mahoney, supra note 190, at 2 (noting the mayor and most of the Atlanta City Council are African-American).
231. See Kotkin, supra note 226, at 7 (noting the mayor and most of the Baltimore City Council are African-Americans who “chafe” at the assertion “that the project’s real goal is to replace . . . black shoppers with a more ‘upscale’ population”).
232. See Jarvie, supra note 221, at A8 (stating gentrification is happening and will continue to happen regardless of the Beltline redevelopment).
233. See NECKLACE, supra note 10, at 12.
234. Mahoney, supra note 190, at 2; see also DISTRICT, supra note 184, at 29 (setting aside $250 million for workforce housing).
235. See id at 30.
to hire workers from poor local neighborhoods. Hiring local workers to improve their own communities not only creates jobs, but fosters neighborhood pride. Further, the Plan indicates at least 37,500 new jobs could be created within these communities once the construction is completed. New housing, jobs, and neighborhood pride should strengthen the resolve of existing residents to remain in their communities.

CONCLUSION

The Beltline TAD has already been passed and it should be implemented in the near future. To combat the sprawl that has contributed to traffic congestion, air pollution, and urban inequality in Atlanta, the city needs to take a Smart Urbanist approach to redevelopment. The TAD will allow for the creation of an unbroken chain of greenspace and trails throughout the inner core of the city. Further, the Beltline will ensure sustainable growth and mobility with its transit component. Once a TAD is created using Georgia’s Redevelopment Powers Law, an economically depressed area—with no hope of private development without public financing—can be revitalized to help combat sprawl and promote sustainability. The policy challenges to the Act are outweighed by the benefits the Beltline TAD will provide to Atlanta. The TAD gives Atlanta an opportunity to better accommodate people like

236. Mahoney, supra note 190, at 2.
237. See DISTRICT, supra note 184, at 4 (stating 48,000 construction jobs will be created by the TAD).
238. See Mahoney, supra note 190, at 2.
239. DISTRICT, supra note 184, at 4 (including light-industrial, commercial, and service sector employment opportunities).
240. See id.
241. Mahoney, supra note 190, at 2 (passing the Beltline TAD on Nov. 7, 2005).
243. See discussion supra Part III.C.
244. See discussion supra Part III.A.
245. See discussion supra Part III.B.
246. See discussion supra Part IV.B.
247. See discussion supra Part V.
Jessica Gray\(^{248}\) who want to live near transit stations.\(^{249}\) Atlanta’s inner city residents deserve “nice, safe and affordable”\(^{250}\) housing in a Smart Urbanist environment.\(^{251}\) Like Gray, Atlantans will not only notice a drop in their commute times, but cleaner air, better access to greenspace, and greater transit equality across all socio-economic groups.\(^{252}\) In 25 years, no one should “bemoan . . . [a] vision that might have been . . . [but] walk its trails, ride its transit, revel in its parks and marvel at what it has become.”\(^{253}\)

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