

THE SPRAWL DEBATE: LET MARKETS PLAN

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Abstract

Sprawl issues ought not be a federal issue because land-use control is local. Americans have been moving to both suburban and private communities for many years, an expression of the constitutional right to travel. They seek more direct control over their personal property rights. Both trends are at odds with the desire of planners to impose more controls via land-use and growth controls. Planners base their arguments on the need to control urban sprawl. Examining their arguments one-by-one shows that they are empirically weak. The controls are ineffective and will do little to slow down these shifts in residential location. The logic of the planners' position would be to control development everywhere via state and even federal legislation, but this is undesirable, unattainable, and probably unconstitutional. Sprawl will remain an issue over which state and local jurisdictions will either continue to fight or find an uneasy accommodation.

In the presidential election campaign of 2000, both candidates responded to a request from an environmental group for a written statement of their position on sprawl. Al Gore's statement was more than double the length of that of George W. Bush, but both took a strong anti-sprawl position. Nevertheless, the sprawl issue never took fire in the campaign, despite the obviously great interest in the issue among the American public. The reason is not difficult to find. Land use is a local policy problem as demonstrated from constitutional decisions tracing back to the 1920s. The federal government, moreover cannot address land use directly. This explains why the Clinton administration's initiatives in this sphere (e.g., the Communities Reinvestment Act) focused on the revival of central cities as an indirect approach to controlling sprawl. In the case of land-use controls, the central intergovernmental issue is the role of state versus local governments. The federal system gives priority to state rights, but local governments do not give up their police power of controlling land use lightly. In several states that have passed mandatory statewide growth-management legislation, some local jurisdictions (counties or municipalities) have been very recalcitrant.

Another point about the U.S. presidential election of 2000 is that it confirmed the long-term trend of declining voter participation. Turnouts in 2000

and 1996 were among the lowest in U.S. history.¹ The rational economic explanation emphasizes the fact that growing affluence raises opportunity costs, which make voting and other forms of political participation less attractive and less likely. An elaboration of this view comes from both Charles Tiebout's classic concept of "voting with your feet"² and Albert Hirschman's Exit, Voice, and Loyalty.³ As exit options become affordable for more people, there will be less voice and less interest in conventional politics. Current and past trends in residential location echo this point. Planners proposing tougher land-use regulations in the name of preventing urban sprawl should take note.

Affluence makes mobility an option for increasing numbers of people. Social, occupational, and geographic mobility are usually intertwined. People often move into new careers, different income strata, and new locations simultaneously. For many years, Americans have moved into the suburbs as they have moved up in life. The importance of either the exercise of voice or the cultivation of loyalty in communities where people have few ties and few reasons to nurture ties may be less compelling.

Debates over the pervasiveness of these phenomena have recently surfaced in discussions of whether more Americans than ever are now Bowling Alone.⁴ Although Robert Putnam cites considerable evidence for a noticeable decline in

community and social capital, his critics suggest that he has been looking in all the wrong places; the Kiwanis Club's membership may be down but the Sierra Club's membership is way up.⁵ Others suggest that it is entirely reasonable for people to “substitute freedom of choice for the binding power of custom and tradition.”⁶ We live in a world of trade-offs.

In the next section, we discuss the federal role in land-use planning. We then briefly discuss what we call the two migrations in the United States. Large numbers of people are engaged in two forms of exit, moving into private communities and/or into suburban/exurban locations where they expect more direct and personal control over their property. Afterwards, we revisit the sprawl debate to reiterate our position that the arguments used by planners and others for vastly enhanced public land-use controls are weak. In the concluding section, we discuss the irony of proposals for stronger state controls at a time when people are looking for property-rights assurances that they find more attractive.

THE FEDERAL ROLE IN LAND-USE PLANNING

In recent years, there have been many state, county, and local ballot initiatives about growth management, “smart growth,” and sprawl. In the past two elections (1998 and 2000), the majority of the initiatives to control sprawl passed.⁷ Yet, there

remain many jurisdictions that refused to accept a growth-management agenda, and an even larger number that did not get involved in the debate and were willing to accept development, even remaining enthusiastic about it. The result is that, regardless how fast the sprawl-containment strategy spreads, there are always cities and counties where development can take place. Thus, the anti-sprawl movement recognized that the way to control this was to press for state legislation. This explains Washington's Growth Management Act of 1990 and the abortive Citizen's Growth Management Initiative in Arizona in 2000 (Proposition 202). Even with a state-mandated growth-management strategy, it is difficult to control development in all jurisdictions because most statutes cannot avoid leaving some wiggle-room for pro-development cities and counties. Furthermore, even if a state program is watertight, developers can always find other states in which to develop, often just across the border. For example, when Portland Metro adopted its restrictive urban growth boundaries in 1979, much of the focus of development shifted to the contiguous Clark County in Washington State. This has continued even after Washington passed its own Growth Management Act in 1990.⁸ Hence, the logic of the argument is to develop a federal land-use policy controlling development in all states.

Such an evolution is almost unthinkable. Local jurisdictions have retained

controls over local land-use under the principle of the police power ever since the U.S. Supreme Court case of Village of Euclid v. Ambler Realty Co. in 1926. The federal government has indirect influence on land-use decisions under other public interest legislation, especially in the environmental area such as the 1970 Clean Air Act, the 1972 Clean Water Act (originally called the Water Pollution Control Act Amendments), and the 1973 Endangered Species Act. Nevertheless, the federal courts have recently shown a strong interest in the “takings” issue⁹ with cases such as Nollan v. California Coastal Commission,¹⁰ Lucas v. South Carolina Coastal Council,¹¹ and Dolan v. City of Tigard.¹² But this is a far cry from a takeover by the federal government of land-use controls. Some other countries with unitary rather than federal political systems (such as South Korea and the United Kingdom) have not hesitated to adopt national land-use policies with strong anti-sprawl elements, but it is difficult to conceive of this happening in the United States, given the principle of states' rights and the long tradition of local land-use and zoning powers.

The two migrations discussed in the next section reassert the important constitutional principle of the right to travel, while (less obviously) some of the discussions about spatial equity that frequently crop up in the sprawl discussions raise the similarly important constitutional issue of equal protection.

THE TWO MIGRATIONS

Increasing mobility reinforces the claim of urban economists that people choose their local government (and local school district)¹³ at the same time as they choose their place of residence. However, the decision is more complex than simply shopping for local public goods. Because most Americans own their residence (66 percent of occupied housing units were owner occupied in 1997; the homeownership rate in 1999 was 67 percent; both proportions are historic highs),¹⁴ and because their home is their largest tangible asset, it is understandable that choice of residence is often influenced by how property rights are secured. Such rights include the very important “collective neighborhood property rights” that assure that neighboring properties are well maintained.¹⁵ Buyers understandably look for credible commitments by cities and/or developers. These motives underlie the demand for land-use controls and zoning rules.

There are two ways in which people get such rules, either in the market or from local government. Not surprisingly, private zoning predates public zoning in America. The landmark Euclid case,¹⁶ which led to widespread zoning by cities, was decided in 1926, while private communities such as Gramercy Park in New York and Louisbourg Square in Boston have been private associations since 1831

and 1844 respectively. Evan McKenzie provides some of the relevant history.

These and other subdivisions pioneered what was to become one of the most significant trends in American urban history; the use by developers of common ownership plans and deed restrictions as private land-planning devices. Similar methods were used by 19th century St. Louis subdividers who provided such services as street maintenance, snow removal, mowing, tree trimming, and street lighting to private neighborhoods through hundreds of private street associations. By 1928 scores of luxury subdivisions across the country were using deed restrictions -- including racially sensitive covenants -- as their legal architecture. To guarantee enforcement of these covenants, developers were organizing 'homeowner associations' so that residents could sue those who violated the rules."¹⁷

Racial restrictions were outlawed in 1948, but private zoning is now making a spectacular comeback with the rise of property owners' associations. Common Interest Developments (CIDs) are essentially run by private governments set in

motion by the developer. They exist at the pleasure of local governments and supply and manage the public goods used by the residents. Each resident holds title to his or her own home plus a share in all of the common areas. The governing covenants are usually much more detailed than zoning codes, but the conditions of enforcement allow some flexibility (via specified rules and often requiring supermajorities) if circumstances require it.¹⁸

Several writers have linked these phenomena to the seminal work of Charles Tiebout¹⁹ who suggested that choice among local governments amounted to a market for local public goods with different people able to express diverse preferences for such goods by “voting with their feet.” Yet, the CID phenomenon is more than that. Because the benefits that people get from consuming public goods available within some community (more accurately, “territorial goods”)²⁰ are capitalized in the value of residential land, the supply side can be described in terms of standard optimizing entrepreneurial market behavior; developers are intent on creating packages of residential amenities that maximize the value of their properties. This suggests that both territorial goods and the rules of governance are formed via a market test. No public official in a traditional municipality has similar incentives. Donald Boudreaux and Randall Holcombe²¹ also point out that markets for constitutional rules are particularly important

because moving is costly: “[c]onstitutions and intergovernmental competition are substitutes for each other.”²² Further, optimal constitutional arrangements are most likely to be executed before the residents move in, before bargaining between large numbers of homeowners becomes too complicated and too expensive.

These innovations in local governance are part of a long history of institutions developed to make transactions cheaper and, thereby, facilitate commerce and prosperity.²³ This is a more reasonable explanation than the critics’ view, exemplified by McKenzie’s assertion that “growing numbers of Americans who wish to purchase new houses are going to be living in CIDs, and under the rule of private governments, regardless of their preferences.”²⁴ On the contrary, there are thousands of independent homebuilders who succeed only if they meet consumers’ demands. They have little choice but to be responsive to people’s preferences for local public goods and to their demand for assurances of neighborhood quality and good governance. This is the key to economic efficiency.

In Zoning and Property Rights, Robert Nelson argues that the current interest in private zoning can also be explained by the inherent problems of conventional politicized zoning. Zoning rights (to be more precise, neighborhood collective-property rights) are routinely, if informally, transacted. Developers

usually gain development rights if they agree to certain payments (usually for infrastructure improvements) and related concessions. It is not surprising that many of them also make substantial political contributions, treated as a cost of doing business. Nelson points out that these transactions are to be expected but that they are inefficient. Greater efficiency is available if communities could bargain directly with developers without the involvement of a third-party zoning board. In fact, he suggests that widespread NIMBY attitudes are the result of the property owners' mistrust of the zoning board's ability to adequately represent owners' interests (economists refer to this as an "agency" problem). If third-party zoning boards cannot be trusted, then the best deal is no deal.

Similarly, Robert Ellickson²⁵ suggests changes in state laws that would make it easier to form Block Improvement Districts, making the advantages of private government available to many who are less mobile in older neighborhoods.²⁶ He proposes this as a way to strengthen social cohesion and civic society in the inner city.

Developers' commitments are often more credible than those of politicians.²⁷ This is not surprising. The rise of environmentalism is one of the major reasons for the current political recognition of many more stakeholders' interests (usually at the expense of property owners' interests). This has resulted in the proliferation of

the number of commissions with many types of discretionary powers over new development that must be satisfied in many established jurisdictions. In many U.S. cities, substantial proportions (often as much as one-half) of the value added of new development is from the efforts in getting all of the necessary approvals in place – before any ground is broken. Property owners increasingly surrender rights to a “common pool”; “[i]ll-defined rights replace well-defined ones ...”²⁸ While the courts debate the extent to which these events might constitute a “taking” of property in violation of the U.S. Constitution’s Fifth Amendment, people and markets are providing clearer remedies.

None of this should be surprising. Even where private zoning is not available, private services appear where public provision is problematic. Jitneys (though often illegal) supplement public transit in most large U.S. cities; many families now avail themselves of private schools or home-schooling (which is facilitated by a growing number of websites designed to help them); and more is now spent on private security services than on federal, state, and local police.²⁹

Current discussions of “urban sprawl” almost inevitably lead to recommendations of ways in which public zoning and regulation can be strengthened (often via proposals to make it a statewide or “regional” function)³⁰ at a time when people, voting with their feet and with their pocketbooks, are

engaging in two types of exit, embracing the private alternatives and/or moving to communities in more peripheral places with fewer controls. The two major current migrations in the United States, into the suburbs (and beyond, into the exurbs) as well as into private communities, are the antithesis of (and undermine) the regulatory trends. In 1998, almost 42 million Americans lived in private communities. Between 1975 and 1998, the share of housing units in CIDs grew from 2.6 percent to 14.8 percent; in the same interval, the suburban share of the housing stock increased by from 36.4 percent to 46.1 percent (the suburban housing stock grew by 80.2 percent while population increased by 25.1 percent).³¹ Both moves involve high stakes, including the search for more favorable property-rights arrangements.

Both migrations also have their critics. Yet, such criticism is reminiscent of a much older debate over what respect we accord the choices made by individuals over how they wish to live and work.³² Do we progress via a “spontaneous order”³³ that is essentially “bottom-up,” or is “top-down” better? About the time when the latter appeared permanently discredited, it was revived in the guise of growth controls, New Urbanism, and “smart growth” plans for “sustainable development.”

THE SPRAWL DEBATE

If regulators are no match for the market, then continuing attempts to implement their agenda will be wasteful. Even as communications and transportation costs continue to fall, cities will continue to thrive because there are always strong social and economic reasons for people to interact. Today, this interaction can take place as effectively in Silicon Valley as in traditional dense urban environments.³⁴ No planner can anticipate or fine-tune these changes in residential location, but markets sort them out efficiently. Then, the new spatial arrangements breed the innovations (both social and technological) that enable society to grow and prosper.

New Urbanism. This is the polar opposite of the anti-sprawl position. Smart growth advocates see “ a growing sense that the suburban paradigm, which has dominated since the 1940s and 1950s, cannot sustain another generation of growth.”³⁵ Peter Calthorpe³⁶ is specific when he suggests a New Urbanism where “there should be defined edges (i.e., Urban Growth Boundaries), the circulation system should function for the pedestrian (i.e, supported by regional transit systems), public space should be formative rather than residual (i.e., preservation of major open-space networks), civic and private domains should form a

complementary hierarchy (i.e, related cultural centers, commercial districts and residential neighborhoods) and population and use should be diverse (i.e., created by adequate affordable housing and a jobs/housing balance).” There is little analysis or discussion of the costs, the implied trade-offs, the consistency between the various proposals, or even the consumer’s desire for such forms. There is no anxiety over the loss of property rights, nor over their politicization. The repetitive use of the word “should” means do what I tell you: I know better. Even the New Urbanist fall-back position that “ building walkable neighborhoods may not get people out of their cars and building front porches may not create an integrated convivial communities, ... [but] people should be given a choice,”³⁷ is not plausible; there is no acknowledgment of the fact that markets regularly generate the more feasible choices while discarding the infeasible ones, based on how opportunity costs compare to consumers’ willingness to pay.

Among the key principles of public policy espoused by the New Urbanists are the following: promoting neighborhoods that are diverse in terms of use (e.g., mixed use developments) and populations (mixed in terms of age, race, and income); designing communities with transportation alternatives (especially walking, cycling, and public transit) to reduce automobile dependence, implying a strong emphasis on compactness; preferring infill development rather than

peripheral expansion; giving some priority to accessible public spaces, community institutions, and a variety of parks and other open spaces to foster communitarian behavior; providing affordable housing distributed throughout the metropolitan region as part of a jobs-housing balance strategy; stressing the importance of farmland preservation and environmental conservation, combined with architectural and landscape design principles that pay attention to local history and cultural heritage, climate, and ecology; and recognizing the metropolitan region as the functional economic region coupled with revenue sharing among its municipalities to finance the alleviation of region-wide problems.

Market Realities. What is wrong with this approach? Most important, it embraces pie-in-the-sky social engineering based on a false diagnosis of society's urban problems, an excessive faith in the ability to change the world, and the prescription of policies that are implementable only under very special circumstances. We will illustrate this claim with some examples.

Durability of Capital. Even if the New Urbanists could capture both political and popular support for their physical planning prescriptions, the results would do little to change the metropolitan landscape.³⁸ The reason is that the urban capital stock is already largely in place and changes very slowly. As for the

residential capital stock, much of it has been built in the last forty years, and the time of its physical obsolescence is far off. Hence, the practical consequences of New Urbanism continue to be a small number of relatively small communities accommodating a minuscule proportion of metropolitan population growth. Demonstration projects, the object of international study tours, a pleasant living environment for a few thousand households, well-paid lecture tours for a small clutch of somewhat immodest architects, the New Urbanist communities amount to little more.

Residential Preferences. Fannie Mae has been conducting surveys about housing preferences for years. The findings have changed little. Regardless of income, race, or current tenure status, 75-80 percent of households would prefer to live in a single-family home with a private yard. Whereas it may be possible via creative architectural and landscape design to produce high-density single-family home developments in the suburbs that are compatible with these preferences, it is probably impossible at the close-in infill sites promoted by the New Urbanists. Developers are not stupid, large ones have extensive marketing expertise, and in general they produce the housing that buyers want so as to guarantee their profitability. If New Urbanist-type developments were demanded by consumers, they would be built. Obviously, we have no objection in principle to the idea that

producers should offer consumers what they want, and we favor experiments by builders that provide a market test to see whether households are open to a change in residential lifestyles. An interesting question, especially with regard to infill projects, is whether these alternatives are acceptable to the community at large, as opposed to the prospective purchasers. There are many examples of broader community objections to high-density projects, usually on traffic-generation grounds.

Farmland Preservation. A favorite argument of the New Urbanists and other anti-sprawl protagonists is that low-density suburban residential development is eating up prime agricultural land. Agricultural productivity has risen sharply because of a shift to profitable land-intensive crops. Urban development still absorbs less than 5 percent of the continental landmass. The argument that this is adversely affecting the world food supply is nonsense. Starvation is a problem of distribution and inefficient food policies, not of aggregate supply.³⁹ Finally, the environmental argument for preserving agricultural land is undercut by the fact that agriculture is, by far, the country's largest polluting sector, generating \$173 billion of pollution damages in water pollution alone.

Mixed Land Uses. New Urbanist communities are intended to be more than residential subdivisions. The plans are to have shops, a wide array of personal and

consumer services, and workplace sites. Only by developing a broad mix of land uses can the goals, of walking to work and to shop be met. This is one of the plans for Kentlands, Maryland, perhaps the most successful of the New Urbanist communities; yet commercial development there lags far behind. Apart from the pedestrian opportunities objective, however, there is no particular reason why these communities need to create an employment base. The idea of “selfcontainment” was one of the principles behind the creation of the British New Towns. Certainly, with the freestanding New Towns on green field sites (less clearly with the modified Expanding Town concept), it never worked well.⁴⁰ Employment centers emerged, but they did not cater to the local population. For skill mismatch and other reasons, the overwhelming tendency was for New Town residents to work elsewhere while the jobs in the New Towns were filled by commuters from outside. As a result, the strategy probably resulted in more commuting rather than less. This would be more true today than it was then because of ubiquitous accessibility by automobile. There is a stronger argument for having retail and other consumer services provided locally, but even in this case, facilities have developed slowly as shoppers are attracted to major malls and other large-scale clusters.

Social Equity Issues. New Urbanist rhetoric gives substantial attention to

promoting equity, fostering residential mixing, providing affordable housing, and reducing central city-suburb income differentials via middle-class infill development. Yet there is little evidence that New Urbanist communities have achieved these goals. Instead, they are turning out to be rather elitist settlements with average income levels much higher than in the surrounding areas. The Laguna West area, for example, has a household income two-thirds higher than Sacramento County, where it is located. At Seaside, Florida, the 1996 average sales price reached \$503,500.⁴¹ New Urbanist communities command a price premium of up to 25 percent.⁴² Offering variety in the housing stock does result in some income mixing, but there are few signs of racial mixing, and supplying a range of housing products is typical of many standard residential subdivisions and is not restricted to New Urbanist communities.

As for the idea that New Urbanism can contribute to the stability, if not revival, of the central city, it remains just that – an idea. There is very little to show for it in practice. Despite the call for an integrated metropolitan unity, most New Urbanist communities are being built on greenfield sites some distance away from the central city. Infill development has been limited -- probably of necessity because of land scarcity – to tiny pockets. Hence, there is no identifiable relationship between New Urbanist communities and the fate of central cities and

those who live there. If there is some consensus for tackling the social problems found in the central cities (and it is by no means clear that this consensus exists), it would be far better to deal with these problems by direct, tightly targeted measures rather than by land-use controls and social experiments on the metropolitan fringe. As David Harvey states: New Urbanism “builds an image of community and a rhetoric of place-based civic pride and consciousness for those who do not need it, while abandoning those that do to their ‘underclass’ fate.”⁴³

Communitarianism. Although the New Urbanists are regarded by some as very conservative, reactionary, and even stodgy, from an architectural point of view, they adhere to a very old architectural tradition, that design affects social behavior, and they radicalize it to the extent that they argue that incorporating specific design elements not only in buildings but also in street layouts and neighborhood patterns can generate a communitarian spirit and dramatically increase social interaction. Although there are precedents for this view (in the writings of Jane Jacobs,⁴⁴ for example), and most people would accept that our behavior is sensitive to, and affected by, the surrounding physical environment, the New Urbanists take the argument to extremes. A major problem with their argument is that, on the ground rather than in their proposals, New Urbanist communities look little different than standard suburban areas. Even if one accepts

the communitarian argument, it is difficult to believe that such subtle changes in the built environment could have more than minuscule social interaction effects. A more fundamental problem is that many New Urbanist projects are so influenced by the nostalgic longing for the archtypical small town of the past that they fall into the trap of believing that recreating its physical structure (at least to some degree) can simultaneously recreate its social and civic behavior. But society, culture, and behavior have changed so much that this is a false dream. Harvey makes the point very well: “The New Urbanism assembles much of its rhetorical and political power through a nostalgic appeal to ‘community’ as a panacea for our social and economic as well as urban ills. . . . (H)arking back to a mythological past carries its own dangerous freight.”⁴⁵

Andres Duany himself argues that New Urbanist communities make American society and human behavior better in three ways: (1) making life richer for children; (2) allowing one to age in place (not so much by creating nearby housing opportunities for empty nesters but by making pedestrian mobility possible); and (3) eliminating the need for more than one car.⁴⁶ But the first two goals are attainable in a wide variety of urban and suburban residential environments, while the third has not been achieved because New Urbanist community residents have similar automobiles per household ratios to households

elsewhere. The explanation of this last point is obvious; the accessibility and mobility needs of individuals cannot be satisfied by constraining them to inside the community, at least within walking distance.

Tripmaking. A major claim of the New Urbanists is that their proposals will lead to major changes in travel behavior: reduced automobile dependence, more transit use, increased bicycling, and a pedestrian-friendly development. Unfortunately, there is little justification for these claims. A high proportion of trips is external to the community (for instance, almost all jobs are outside), and cars remain necessary for mobility. No significant transit services have been developed to link New Urbanist communities with nearby centers; for example, the plans for a transit system to link Laguna West with Sacramento (about 10 miles away) never materialized. The majority opinion is that the New Urbanist communities will never be dense enough or large enough to justify significant (i.e. frequent) transit service.⁴⁷ Duany admits that market preferences, heterogeneous housing demands, and the open-space provisions that drastically reduce gross compared with net residential densities result in relatively low densities compared with transit-oriented neighborhoods. Careful analysis of the tripmaking impacts⁴⁸ suggests that it is unclear whether higher density communities will result in more auto trips or less. The limited scope of retail and other consumer services in New

Urbanist communities (typically, one shopping center) means that even within these communities, most services are beyond the average American's tolerance for service-oriented walking (i.e., between one-quarter and one-half mile). The New Urbanist communities often lend themselves to comfortable cycling, but bicycles remain a niche travel mode, at least for Americans.

NEGLECTED FACTS

Analysts arguing for stronger land-use controls continue to promote their agenda regardless of the weight of evidence that conflicts with their views. The arguments for stronger land-use controls remain weak, for the following reasons:⁴⁹

1. The air is getting cleaner in spite of more people, more automobiles, and more vehicle miles driven. In the years 1979-1996, U.S. population grew by 29 percent, vehicles by 98 percent, and vehicle miles traveled (VMT) by 125 percent; yet, in the same interval, all four on-road vehicle emissions (VOC, NO_x, PM₁₀ and CO) declined.⁵⁰

2. Reductions in most air pollutants began well before the onset of federal environmental regulation. In developed countries, market pressures account for responsiveness to the demand for a cleaner environment and have caused technological improvements to be implemented as long as common-law protections and incentives were not preempted.⁵¹

3. Much more food is being grown on much less land. Cropland use in the United States peaked in 1930.⁵² Reforestation in America is the result of greater agricultural efficiencies leading farmers to farm only their best land.⁵³ The amount of farmland would be even less in the absence of federal programs that pay handsomely for “farmlands” not farmed.

4. Suburb-to-suburb commuting and low-density settlement ease traffic congestion. Average commuting speeds increased between 1983 and 1990 and again between 1990 and 1995.⁵⁴ Although trip distances have increased, trip times have increased only modestly. There is inevitable congestion because access is almost everywhere free (a problem) and continues to be widely seen as an entitlement (the source of the problem). Given all of this, it is surprising how little congestion there is. Flexible land markets (e.g., the “suburbanization of commuting”) provide the traffic safety valve; “impending gridlock” remains forever impending. The casual observation that the worst traffic conditions occur in the densest cities is backed by careful research. Donald Pickrell and Paul Schmieck⁵⁵ demonstrate that, after controlling for income and other household characteristics, the elasticity of household VMT with respect to residential density is approximately -0.1. A doubling of densities would decrease VMT per household by 10 percent, but with twice as many households, there would be many more

trips.

The Nationwide Personal Transportation Survey journey-to-work trip times correlate positively (significantly) with urbanized area population densities. Other cross-sectional studies corroborate the intuition that high development densities are associated with high congestion.⁵⁶ Kenneth Orski reports that “(t)he Ballston rail transit station in Northern Virginia, often cited as a national model of a compact transit-oriented ‘village’ that is supposed to encourage walking and reduce car use, is a case in point. With density five times higher than their neighboring spread-out Fairfax City/Oakton area, Ballston creates more than four times as many daily vehicle trips than its low-density neighbor.”⁵⁷

Even where everything is within walking distance and everyone rides bicycles, people continue to drive their automobiles, and often. Household trip frequencies are often the wild card. It is by no means clear that these remain unchanged when access is improved. It is more likely that Americans will buy more as the price drops.⁵⁸ The federal Clean Air Act mandates higher densities, and federal, state, and local planning agencies promote compact land-use arrangements in the belief that these will contribute to less auto use and cleaner air. Yet the theory behind this multi-billion effort remains weak.

5. Inner city poverty is not a consequence of low-density suburbs.⁵⁹

Poverty is a human capital problem exacerbated by poor inner city schools. Moreover, equity loses out when controls limit housing availability and push up prices. It is no accident that the planners' showcase (Portland, Oregon) is now among the least affordable of U.S. cities in housing, with the fastest-growing house prices in the 1990s.⁶⁰ A related issue is how the costs and benefits of alternative settlement patterns are distributed. The brute fact is that there are, in most cases, gainers and losers from any market or institutional change. The point is that market forces minimize costs to losers. Yes, CIDs may be more expensive, and the poor may not have access, but the suburban exit has created significant housing opportunities for central-city households.

6. There are no clear infrastructure savings from high residential densities.

The few available studies reveal a “U-shaped” cost function that bottoms at relatively low residential densities, below 1250 people per square mile.⁶¹ Scale economies in areas such as power generation are probably a thing of the past. In any event, cost minimization is not the full story. People compare and trade off marginal costs with marginal benefits whenever they can.

7. The social interactions of suburbanites are no different from central-city residents.⁶² A standard argument is that more compact living encourages civil society. But few agree on what “community” means. We do know, however, that

the residents of U.S. central cities and suburbs take precisely the same proportion of trips for “social” reasons. Robert Nelson found substantial community involvement in private neighborhoods, and argued that this is a much more plausible outcome than promoting community via top-down planning.⁶³

8. Providing expensive rail-transit systems does nothing for traffic congestion. After more than \$360 billion of public subsidies, most of it to rail transit, over the last 35 years, per capita transit use in the United States is at a historic low.⁶⁴ Yet, new rail-transit systems are routinely proposed and built. This waste is explained by political porkbarrel. The overwhelming majority of Americans prefer personal transportation, a fact that planners and politicians continue to ignore.

9. The downtown revival stories may be much exaggerated. There have been many media reports about the revival of the central city in general and downtown in particular. Also, the 2000 Census results have revealed remarkable resilience in several central cities. So, are the central cities coming back? Our belief is that in the large city cases, the explanation was the tight labor market of the late 1990s. Some of the small cities have done well by promoting their downtowns as tourist centers.⁶⁵ In the long run, the central cities require all the stars to come into constellation. The large majority of non-traditional households

have to swear off children forever (no rational analysis can expect the vast majority of central-city schools to improve soon); central cities have to create their mini-Manhattans of good restaurants and recreational and cultural amenities; they have to address the other central-city social problems, apart from education; and significant job growth has to occur in downtowns (a little easier in the information technology age than in the industrial age). There are serious doubts that this constellation can come into line.

The arguments for more land-use controls are, of course, much more extensive (some are even silly, such as the assertion that Atlantans are the most obese because of that city's suburban sprawl, a hypothesis that has inspired research projects at the Centers for Disease Control).⁶⁶ The current favorite is "global warming" with proposals that seek to implement drastic lifestyle changes to counter it ("get people out of their cars"). Yet the evidence for climate change remains very controversial,⁶⁷ and the cost-benefit ratios of the policy proposals from the Kyoto Conference have been seriously questioned. Another issue is the relative importance of increasing land-use consumption per household relative to population growth as the major contributors to sprawl. This is a recurrent internal debate among anti-sprawl analysts that is, for example, tearing the Sierra Club apart. Some argue that land use is four times as important as population growth⁶⁸.

Others argue that population growth accounts for more than one-half of the problem.⁶⁹ Still others find significant variations among individual metropolitan areas.⁷⁰ Some of the confusion relates to a temporary glitch in the 1997 land-use database from the U.S. Department of Agriculture's Natural Resources Inventory. Because this is an internal discussion among those who take a different position on land-use controls, we remain neutral, except when they take the leap from population growth is the problem to immigration is the problem. In our view, the cliché that the United States is a "nation of immigrants" does not do full justice to the net benefits conferred on society as a whole and to individuals from recent immigration.

CONCLUSION

The agenda of the regulators cannot be justified on either equity or efficiency grounds. It is not clear what social benefits can reasonably be expected from their programs. Events in Eastern Europe and other places at the end of the twentieth century showed that markets will eventually prevail because the alternatives are not tenable. There is no reason to believe that land markets are exempt from this generalization. Innovations and improvements in most of humanity's material conditions, including their housing and living arrangements, spring from the profit-

seeking impulses of entrepreneurs when allowed to operate in an environment of economic freedom. This is why minimalist local planning is preferred.

What then is the local government equivalent of Robert Nozick's Nightwatchman State? It is clear that planners should do few things and do them well. Several writers⁷¹ have proposed that land markets (developed and undeveloped land) be freed while city planners focus on improving infrastructure planning. In this way, they would set and publicize the preconditions (the "rules of the game") for land markets. Planners would need to concern themselves only with trunkline infrastructure planning because anything below that level could be privately supplied by developers. Developers have already demonstrated their ability to create large-scale "planned communities" (that made up almost two-thirds of the CID housing stock in 1998).

It is a truism that everyone plans and that planning is essential. The important question is: what is the optimal division of labor between private and public planners? Our proposal (focus on infrastructure, set the rules of the game, and liberalize land markets) suggests one answer. The optimal division of responsibilities deserves further thought. The problem is that the city planning profession is unprepared. The public and planners are pulling in opposite directions. It is ironic that many writers suggest Canadian and Western European

cities as models for U.S. planners. Short visits to tourist-oriented town centers are misleading. European and Canadian cities are also spreading out via the suburbanization of people and jobs. Automobile use is increasing, and transit use is declining.⁷² This occurs in spite of much tougher policies than in the U.S. designed to promote the opposite trends. Rather than pursuing the hopeless goal of getting people to give up strongly preferred freedoms and lifestyles, U.S. planners may want to ponder how they can increase their effectiveness by doing less.

Finally, how does all this affect federalism and related issues? First, the federal government is a bystander in all this unless it can create a wedge issue (e.g., air quality, water quality, endangered species, or central-city disinvestment) to justify intervention on other grounds. Second, with respect to intergovernmental relations, the arena is a debate between states and local jurisdictions, with the federal government almost irrelevant. Third, in our view, the constitutional issues that emphasize individual rights are the most critical. The sprawl debate, at its most fundamental level, hinges on whether one believes that people have the right to choose where they want to live, what they want to drive, where they want to shop, and soon - - if they are willing to pay the full costs involved.

Endnotes:

¹Susan Schmidt and John Mintz, “Voter Turnout Up Only Slightly Despite Big Drive,” The Washington Post, 9 November 2000, p. A35.

²Charles M. Tiebout, “A Pure Theory of Public Expenditures,” Journal of Political Economy 64 (October 1956): 416-424.

³Albert O. Hirschman, Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations and States (Cambridge: Harvard University Press, 1970).

⁴Robert D. Putnam, Bowling Alone: The Collapse and Revival of American Community (New York: Simon and Shuster, 2000).

⁵Lynne L. Kiesling, “Book Review,” The Cato Journal 20 (Spring/Summer 2000): 131-133.

⁶Paul Heyne, A Students’ Guide to Economics (New York: Prentice Hall, 2000), p. 28.

⁷Samuel R. Staley and Gerald C.S. Mildner, “The Price of Managing Growth,” Urban Land 59 (February 2000): 18-22, cites a source that reports 1,000 such bills were introduced in 1999 alone, with 20 percent of them passing. Others cite 240 similar measures introduced between 1996 and 1998 with 75 percent passing.

⁸Chang-Hee Christine Bae, “The Cross-Border Impacts of Growth Management Controls: Portland, Oregon, and Clark County, Washington” (paper presented at the Pacific Regional Science Conference, Portland, Oregon, July 2001).

⁹Robert Meltz, Dwight H. Merriam, and Richard M. Frank, The Takings Issue: Constitutional Limits on Land-use Control and Environmental Regulation (Washington, D.C.: Island Press, 1999).

¹⁰Nollan v. California Coastal Commission, 483 U.S. 825 (1987).

¹¹Lucas v. South Carolina Coastal Council, 112 S. Ct. 2886 (1992).

¹²Dolan v. The City of Tigard, 114 S. Ct. 2309 (1994).

¹³Caroline M. Hoxby, “Does Competition Among Public Schools Benefit Students and Taxpayers?” The American Economic Review 90:5 (2000): 1209-1238, reports that the more such choices parents have, the higher are student achievement scores and the lower is school spending.

¹⁴United States Census Bureau, Statistical Abstract of the United States: 2000 120th ed. (Washington, DC: U.S.

Government Printing Office, 2000), Tables 1212 and 1213.

¹⁵Robert H. Nelson, "A Private Property Right Theory of Zoning," The Urban Lawyer 11 (1979): 713-732.

¹⁶Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926).

¹⁷Evan McKenzie, Privatopia: Homeowner Associations and the Rise of Residential Private Government (New Haven: Yale University Press, 1994).

¹⁸Robert H. Nelson, "Privatizing the Neighborhood: A Proposal to Replace Zoning with Private Collective Property Rights to Existing Neighborhoods," George Mason Law Review 7 (Summer 1999): 1-54, enumerates the legal differences between condominium ownership and planned unit development (PUD), which make up about two-thirds of CIDs.

¹⁹Tiebout, "A Pure Theory of Public Expenditures," 416-424.

²⁰Fred Foldvary, Public Goods and Private Communities (Aldershot, Hants, U.K. and Brookfield, VT.: Edward Elgar Publishing Co, 1994).

²¹Donald J. Boudreaux and Randall G. Holcombe, "Contractual Governments in Theory and Practice," The Voluntary City, in D. Beito et al.(eds.) (Ann Arbor: University of Michigan Press, forthcoming).

²²Ibid., 14.

²³Bruce L. Benson, "Economic Freedom and the Evolution of Law," The Cato Journal 18 (1998): 209-232.

²⁴McKenzie, Privatopia, p. 12. Critics also confuse CIDs with gated communities. The overwhelming number of CID communities are not gated, with estimates ranging from 10-20 percent (Timothy Egan, "Many Seek Security in Private Communities," New York Times, 3 September 1995, pp. A1, A22.)

²⁵Robert C. Ellickson, "New Institutions for Old Neighborhoods," Duke Law Review 48 (1998): 75-110.

²⁶Similar proposals are suggested by Nelson. (Robert H. Nelson, "Privatizing the Neighborhood: A Proposal to Replace Zoning with Private Collective Property Rights to Existing Neighborhoods," George Mason Law Review 7 (1999): 1-54.)

²⁷Jerrell Richer, "Urban Congestion and Developer Precommitments: Unilateral Solutions to Dynamic Inconsistency," Urban Studies 32 (1995): 1279-1291. Donald J. Boudreaux and Randall G. Holcombe, "Contractual Governments in Theory and Practice" in D. Beito, et al (eds.) The Voluntary City. (Ann Arbor: University of Michigan Press, forthcoming).

²⁸Richard A. Epstein, Takings: Private Property and the Power of Eminent Domain (Cambridge: Harvard University Press, 1985), p. 265.

²⁹Bruce L. Benson, "Why Crime Declines," Ideas on Liberty 50 (2000): pp. 22-25.

³⁰For a brief history of the problems created by regional governments in the U.S., see Siegel 1999. (Fred Siegel, "Is Regional Government the Answer?" The Public Interest 137 (1999): 85-98.).

³¹Clifford J. Treese, Community Associations Factbook (Alexandria, VA: Community Associations Institute, 1999). Consistent employment time series from the Bureau of Economic Analysis are available for counties. These show that most 1975-98 private sector job growth was in the fringe counties of the largest metro areas (1 million or more pop.), where job growth was 1.5 times the U.S. rate. Recently released census population data show that of the top ten 1990 central cities (New York, Los Angeles, Chicago, Houston, Philadelphia, San Diego, Detroit, Dallas, Phoenix, San Antonio), four grew faster in the 1990-2000 interval than the U.S. while six did not. Of the latter, two (Philadelphia and Detroit) continued to shrink. Only two of the top ten central cities (New York and San Antonio) grew faster than their metro areas. It is hard to see a "back to the city" movement. Gentrification exists but is a minor phenomenon.

³²Joel Garreau, Edge City: Life on the New Frontier. (New York: Anchor Books, 1991).

³³Friedrich A. Hayek, The Fatal Conceit: The Errors of Socialism. (Chicago: The University of Chicago Press, 1978).

³⁴Silicon Valley office rents were recently reported to be \$70 per square foot while Manhattan's were slightly less than \$58. San Francisco's \$76 rates are attributed by many to the Silicon Valley boom.

³⁵Peter Katz, The New Urbanism: Toward an Architecture of Community (New York: McGraw-Hill, 1994), p. ix.

³⁶*Ibid.*, xiii.

³⁷Peter Calthorpe, The Next American Metropolis (New York: Princeton Architectural Press, 1993).

³⁸Anthony Downs, A New Vision for Metropolitan America (Washington, D.C.: Brookings Institution, 1994).

³⁹Joyce Burnette and Joel Mokyr, "The Standard of Living through the Ages" in The State of Humanity, ed. Julian L. Simon. (Oxford: Blackwell, 1995).

⁴⁰Peter Hall, Cities of Tomorrow (Oxford: Blackwell, 1988). Colin Ward, New Town, Home Town, the Lessons of Experience (London: Calouste Gulbenkian Foundation, 1993).

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- ⁴¹Alexander Garvin, "Is the New Urbanism Passe?" Lusk Review 4 (1998): 12-32.
- ⁴²Mark J. Eppli and Charles C. Tu, Valuing The New Urbanism: The Impact of the New Urbanism On Prices of Single-Family Homes. (Washington, DC: The Urban Land Institute, 1999).
- ⁴³David Harvey, "The New Urbanism and the Communitarian Trap," Harvard Design Magazine 69 (Winter/Spring 1997).
- ⁴⁴Jane Jacobs, The Death and Life of Great American Cities (New York: Prentice-Hall, 1961).
- ⁴⁵Harvey, "The New Urbanism and the Communitarian Trap," 68-9.
- ⁴⁶Harvey, "New Urbanism: Urban or Suburban?" 47-63.
- ⁴⁷Anthony Downs, A New Vision for Metropolitan America (Washington, D.C.: Brookings Institution, 1994).
- ⁴⁸Randall Crane, "Cars and Drivers in the New Suburbs: Linking Access to Travel in Neo-traditional Planning," Journal of the American Planning Association 62 (Winter 1996): 51-65.
- ⁴⁹Peter Gordon and Harry W. Richardson, "Prove It," The Brookings Review 16 (1998): 23-25.
- ⁵⁰http://www.fhwa.dot.gov/environment/AIR_ABS.HTM, 1997; Table on page 8.
- ⁵¹Roger Meiners and Bruce Yandle, "Common Law and the Conceit of Modern Environmental Policy," George Mason Law Review 7 (1999): 923-963. Indur M. Goklany, "Empirical Evidence Regarding the Role of Nationalization in Improving U.S. Air Quality" in Roger E. Meiners and Andrew P. Morriss (eds). The Common Law and the Environment: Rethinking the Statutory Basis for Modern Environmental Law. (New York: Rowman & Littlefield Publishers, Inc., 2000).
- ⁵²The U.S. Department of Agriculture recently revised its 1997 National Resources Inventory (www.nhq.nrcs.usda.gov/NRI/), admitting that its widely cited earlier warnings about the loss of farmland was due to a "statistical software" error.
- ⁵³Thomas H. Frey, "Trends in Land Use in the United States" in Julian L. Simon (ed.) The State of Humanity. (Oxford: Blackwell, 1995).
- ⁵⁴Patricia S. Hu and Jennifer R. Young, Summary of Travel Trends: 1995 Nationwide Personal Transportation Survey. (Washington, DC: U.S. Department of Transportation, Federal Highway Administration, 1999): p. 44.
- ⁵⁵Donald Pickrell and Paul Schmiek, "Trends in Motor Vehicle Ownership and use: Evidence from the Nationwide Personal Transportation Survey," Journal of Transportation and Statistics 2 (1999): 1-17.

⁵⁶David T. Hartgen and Daniel O. Curley, “Beltways: Boon, Bane or Blip?” Factors Influencing Changes in Urbanized Area Traffic, 1990-1997 (University of North Carolina, Charlotte: Center for Interdisciplinary Transportation Studies: WP 190, 1999).

⁵⁷C. Kenneth Orski, “In Search of Livability,” Innovation Briefs 10 (Sep/Oct 1999): 1.

⁵⁸Randall Crane, “Cars and Drivers in the New Suburbs: Linking Access to Travel in Neotraditional Planning,” Journal of the American Planning Association 62 (Winter 1996): 51-65.

⁵⁹Anthony Downs, “Some Realities about Sprawl and Urban Decline,” Housing Policy Debate 10 (1999): 955-974.

⁶⁰Staley and Mildner, “The Price of Managing Growth,” 18-22

⁶¹Helen Ladd, “Population Growth, Density, and the Costs of Providing Public Services,” Urban Studies 29 (1992): 273-295.

⁶²Peter Gordon and Harry W. Richardson, “Critiquing Sprawl’s Critics,” CATO Policy Analysis 365 (2000)

⁶³Robert H. Nelson, The Privatization of Local Government: From Zoning to RCAs” in Residential Community Associations: Private Governments in the Intergovernmental System? (Washington DC: U.S. Advisory Commission on Intergovernmental Relations, 1989).

⁶⁴www.publicpurpose.com

⁶⁵Peter Gordon and Harry W. Richardson, “The Destiny of Downtowns: Doom or Dazzle?” Lusk Review 3 (1997): 63-76

⁶⁶June Manning Thomas, “The Forces of Urban Heterogeneity Can Triumph,” American Quarterly 46 (1994): 49-54, sees “racial and income segregation, oppression of women and ecological rape” as a consequence of suburbanization. James Kunstler mentions sprawl as an explanation of the Littleton, Colorado, shootings (quoted in Neal R. Peirce, “Littleton’s Legacy: Our Suburban Dream Shattered,” The Washington Post, 6 June 1999). “On a Rainy Night In Georgia, What Can You Do But Eat? – There Are More Obese People All Over, but Peach State Really Takes the Cake” The Wall Street Journal, 29 October 1999 by Ann Carns and James R. Hagerty (p. A1).

⁶⁷www.co2science.org

⁶⁸David Rusk, Inside Game, Outside Game: Winning Strategies for Saving Urban America (Washington, D.C.: Brookings Institution Press, 1999).

⁶⁹Roy Beck and Leon Kolankiewicz, Weighing Sprawl Factors in Large U.S. Cities, 2001 (SprawlCity.org.).

⁷⁰Rolf Pendall, William Fulton and Alicia Harrison, “Losing Ground to Sprawl? Density Trends in Metropolitan America.” (Paper presented at the Fannie Mae sessions at the Association of Collegiate Schools of Planning Conference, Atlanta, October 2000).

⁷¹Robert H. Nelson, Zoning and Property Rights: An Analysis of the American System of Land-Use Regulation (Cambridge: The MIT Press, 1980). Randall G. Holcombe, “Growth Management in Action: The Case of Florida,” in Randall Holcombe and Sam Staley (eds.), Market Strategies for Land Use Planning for the 21st Century (Westport, Connecticut: Greenwood Press, 2001).

⁷²Christian Gerondeau, Transport in Europe (Norwood, MA: Artech House, Inc., 1997).