

GROWTH MANAGEMENT IN FLORIDA: LESSONS FOR THE NATIONAL ECONOMY

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Introduction

In 1985, Florida's Growth Management Act was passed, and this paper discusses its characteristics and implications. The object of Florida's Growth Management Act is to take some of the rights to determine the use of land away from the property owner and to have the use of the land determined politically. The Act also transfers to the state government some land use decisions that used to be made by local governments through zoning. While the specific implications of the Act apply specifically to Florida, there are broader lessons for the nation. Growth management on a statewide basis has become increasingly popular over the past 15 years: A number of states have enacted statewide land use planning of some type or another, and other states are considering such legislation. Florida's experience is relevant to the nation because the reasons behind statewide growth management are the same in Florida as in other states, and because Florida's Growth Management Act could be used as a model for other states, much as Florida adopted many of the features of Oregon's growth management legislation. This paper considers both the general motivations for growth management and the way that growth management has been implemented in Florida.

Florida's Growth Management Act specifies a political process through which land use decisions are made. The details of the process are described below, but the effect of the Act is to take some of the right to determine how land will be used away from the individ-

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ual property owner and to transfer it into the political arena. Clearly, individuals who do not own much land but do have political power will benefit from this transfer of rights away from landowners. This transfer provides a base of political support for statewide growth management. Growth management lets some people decide how the property of others will be used.

There is a clear redistributive aspect to growth management legislation that explains its popularity.¹ Aside from the distributive aspect, does growth management legislation improve land use patterns? For growth management at the state level, the answer is clearly no. Economists since Adam Smith have observed that private ownership and market allocation of resources are more efficient than government allocation, and the contemporary economic analysis of property rights supports this view.² On the other side of the argument, externalities may exist so that one person's land use decisions impose costs on everyone else. Bernard Siegan (1970, 1972) has explained how market allocation of land minimizes these externalities, but Siegan's argument is unnecessary for analysis of land use planning at the state level. Few land use externalities will spill over from one county to another, so local government planning should be sufficient to internalize any externalities arising from land use decisions.

Statewide growth management is undesirable because it creates more poorly defined property rights, which reduce the efficiency of land use decisions. Such management cannot be justified on the basis of externalities. Externalities will largely be confined to local government jurisdictions, such as counties; local governments already use tools such as zoning and eminent domain to deal with land use externalities.

The foregoing discussion illustrates the undesirability of statewide growth management in terms of general economic principles. The remainder of the paper examines Florida's Growth Management Act specifically to show how the Act has affected private property rights of landowners and how land use in Florida is likely to be affected as a result of Florida's specific implementation of growth management.

An Overview of Florida's Growth Management Act

Florida's Local Government Comprehensive Planning and Land Development Regulation Act (Florida's Growth Management Act)

¹See Holcombe (1990) for a more complete discussion of the distributive aspects of Florida's Growth Management Act.

²See, for example, Alchian (1965) for a good discussion of the inefficiencies of governmentally determined resource allocation when compared to market allocation with private property rights.

was passed in 1985, and its full effects have yet to be seen. In brief, the Act requires local governments to submit comprehensive land use plans to the Florida Department of Community Affairs. These plans must comply with the provisions of the Act. Two notable features of the Act are, first, that local plans put all land into zones that allow varying levels of development and, second, that there is a requirement that infrastructure be in place concurrent with development.

Florida has seen decades of rapid growth and has suffered some growing pains in the process. Florida's Growth Management Act is a response to those growing pains. The Act has widespread support, partly because people tend to think that when problems arise, the government should do something, and partly because the Act is relatively new and its negative consequences have not yet been felt. Despite the inevitable costs of the Act, it is not designed in such a way that it will succeed in achieving its stated goals. Unfortunately, for most of Florida's citizens who will not study the issue in depth, the negative consequences of the Act will appear to be the result of growth itself, which could lead to a call for additional legislation to address the effects of statewide growth management.

Some of the infrastructure-related growing pains in Florida have been the result of the fact that infrastructure lasts a long time, but it must be financed as it is built. Many of the future taxpayers who will use the infrastructure for decades to come do not yet live in the state and are not yet paying taxes. These financial difficulties are a product of growth itself that statewide comprehensive planning cannot hope to overcome. Some infrastructure-related growing pains are also a result of the lack of foresight of government planners decades ago. If more land were obtained for rights-of-way, parks, and other municipal uses when such land was in the path of future development, infrastructure-related problems in many urban areas would be less pressing.

It is difficult to find fault with government planners in the past for not being able to foresee the future, but current growth management legislation is written as if current planners can foresee the future. With hindsight, problems are apparent with regard to both government plans for growth and developers' plans for their own property. The real question for Florida today is whether Florida's Growth Management Act will be beneficial in guiding future growth and development. This paper argues that the Act will, on net, be detrimental to Florida.

Some Details of Florida's Growth Management Act

Florida's Growth Management Act is built around the comprehensive plan that must be submitted by all local governments and

approved by the state. Development is allowed only if the land use does not violate the local plan.³ Because state approval of the local comprehensive plan is required, the Act gives the state extensive control over local land use in Florida.⁴ Once drawn up, the local plans can be modified, which provides flexibility to the planning process. Just as with the original plans, any modifications must be in accordance with the other provisions of the Act.⁵

In this regard, perhaps the most significant provision of Florida's Growth Management Act is the so-called concurrency requirement. The concurrency rule requires "that public facilities and services needed to support development shall be available concurrent with the impacts of such development."⁶ Stated this way, the concurrency goal is not controversial. Everyone wants the facilities needed to support development to be available concurrent with the development. Nevertheless, the concurrency requirement has become controversial because political implementation of concurrency means that development decisions that previously could be made by landowners can now be made only as part of a political decisionmaking process.

The importance of the concurrency requirement becomes clear when it is seen how concurrency is used to develop local comprehensive plans and to manage growth. The immediate effects of concurrency are most binding on roads, so the following discussion will concern that aspect of the infrastructure. Note, however, that the concurrency requirement applies to other infrastructure components

³To promote orderly development, the Department of Community Affairs encourages the local comprehensive plans to conform to population projections for that area. For example, the Department of Community Affairs would question a plan that would accommodate twice the population projected for the area. As a rule of thumb, the Department of Community Affairs does not want comprehensive plans to accommodate more than 120 percent of an area's projected population.

⁴In testimony before the Florida House Committee on Community Affairs on November 13, 1989, Thomas Pelham, Secretary of the Department of Community Affairs, remarked that one county submitted a local plan to the state that had zoned all land adjacent to state roads for commercial use. Secretary Pelham viewed this as undesirable because it could create "urban sprawl," and the plan was rejected by the state. This example clearly shows the extent of state control in decisions that previously would be under the jurisdiction of local governments.

⁵Florida's Growth Management Act allows modifications only twice a year, which limits flexibility. A larger factor limiting flexibility might be that there usually has been a sufficient supply of land zoned for the type of development that developers were undertaking. Local comprehensive plans could limit the supply of land zoned in certain ways so as to make zoning itself more binding, independent of the other provisions of the Act.

⁶This wording is quoted from Florida Statute 163.3177(9).

as well, including wastewater, schools, parks, and fire and police protection.

The local comprehensive plans must establish level-of-service standards for all roads within the local government's jurisdiction. There are legal definitions both for levels of service, and for levels of service that will be acceptable in the comprehensive plans. If existing levels of service are unacceptable, then the state will not approve a comprehensive plan that allows additional development that will add to the traffic on an unacceptably congested road. To be approved, a comprehensive plan must provide for a way to improve levels of service to acceptable levels.⁷

The first political hurdle regarding concurrency should now be apparent. Owners of undeveloped property can develop that property only if development is consistent with the local comprehensive plan. The comprehensive plan can incorporate development only if it does not degrade levels of service to unacceptable levels. Therefore, for those interested in immediate development, much is at stake in having that development included in the comprehensive plan.

The concurrency requirement has the potential for even greater effects on future development. For future development to be approved, infrastructure must be in place concurrent with the development. Concurrency in roads, for example, could be especially troublesome to developers because local comprehensive plans define levels of service on roads. If a development will add traffic to a road several miles away (closer toward downtown, for example) so that the road would decline to a level of service below that defined in the comprehensive plan, the development would violate the concurrency rule and so would not be allowed.

The potential impact of the concurrency rule is heightened because, as will be discussed further below, almost anyone can challenge a development on concurrency grounds.⁸ Thus, Florida's Growth Management Act gives people who are opposed to a development for any reason a legal mechanism for stalling the development and for imposing costs on the developer.

⁷This is a slight exaggeration. While Florida's Growth Management Act reads that way, in reality there may be ways to get a plan approved with unacceptable levels of service on roads. Dade County's plan was approved despite unacceptable levels of service under the justification that congested roads would help the county achieve the goal of using more mass transit. In this specific case, flexibility might be viewed as a virtue. In general, it means that the Department of Community Affairs has a large amount of discretionary authority over the local planning process.

⁸See Taub (1988) for a discussion of legal standing and the concurrency rule.

In summary, Florida's Growth Management Act will place all land in Florida under the jurisdiction of some local comprehensive plan. Development can take place only within the plan's parameters. Plans can be modified, but the concurrency requirement has the potential of placing a substantial roadblock in the way of any change, or of any development that would erode the level of service of infrastructure below the planned level, as defined in the comprehensive plan. The Act, therefore, has the effect of transferring some of the rights to use property from the property owner to the general public through the political process.⁹

Florida's Growth Management Act and Florida's Growth Problems

In general terms, the concepts of growth management and concurrency mean providing orderly growth and making sure that development does not outstrip the infrastructure that is servicing the development. The problem is difficult because infrastructure must be paid for as it is built, even though once in place, it will provide services for a long time. As written, Florida's Growth Management Act does not deal with this problem and actually makes one reasonable solution a violation of the law.

When stripped of the jargon about comprehensive plans, concurrency, and levels of service, Florida's Growth Management Act makes congestion of infrastructure illegal. Development cannot proceed without infrastructure in place or in progress to support it. But making congestion illegal does not specify how congestion is to be dealt with, and the Act does not provide any solutions. Florida's Growth Management Act deals with infrastructure the same way wage and price controls deal with inflation. Wage and price controls make inflation illegal but do not deal with the underlying causes of inflation. Likewise, the Act makes congestion illegal without dealing with the causes of congestion.

This observation is not new. Some individuals have commented that the Growth Management Act will force the legislature to deal with infrastructure problems, but this view may be optimistic. First, there are no easy solutions; otherwise the problems could have been dealt with directly in the Act rather than postponed. Second, until something is done to ease congestion, there is a conflict between the Growth Management Act and development to accommodate Florida's inevitable growth. These problems manifest themselves as polit-

⁹A good discussion of takings appears in Pilon (1988).

ical pressure on several fronts: pressure to reduce growth, pressure to increase funding for infrastructure, and pressure to modify the Act. Third, the wording of the Act prevents the financing of infrastructure out of the tax base that will be created by development.

One way to deal with congestion is to allow development that will increase congestion and lower levels of service. The development will generate more tax revenue, and the additional tax revenue can be used to produce more infrastructure. If infrastructure is created concurrent with development, then those who use the new infrastructure will be the occupants of the new development, but those new occupants have not been a part of the tax base. An alternative is to plan for future infrastructure by setting aside land for roads, parks, schools, and so forth, but then to wait to produce the infrastructure until the tax base is in place and paying taxes to finance the infrastructure. The result is a temporary increase in congestion until the infrastructure is completed.

This solution may not be appropriate in all cases, but the concurrency requirement in Florida's Growth Management Act makes it illegal in every case. A law that has good intentions does not necessarily produce good results. In this example, the Act outlaws one possible solution to the problems it is trying to solve.

Florida's Growth Management Act also encourages developers to develop overly rapidly to beat congestion problems. If development is illegal when the infrastructure is judged inadequate, then developers have an incentive to develop quickly before congestion occurs that will prevent future development. In this instance, the Act contains incentives to develop inefficiently.¹⁰

As communities grow, more population leads to more congestion. Residents tend to want the amenities of growth—the strong local economy produced by new jobs, good shopping areas, cultural activities, major league baseball—without the costs. In a growing community, residents may live in the same houses from year to year, but they are living in a changing community. One of the costs of living in a larger community is more congestion.

Property values rise as population in an area increases, and those higher property values reflect the increased locational desirability of property nearer the center of development. Existing property owners have an incentive to keep developed property scarce and to keep property values high by stifling development, but this behavior imposes a cost on the owners of undeveloped property who have

¹⁰For a discussion, see Wagner (1988) and Sonstelie and Portney (1978).

some of the value of their property transferred—through artificially created scarcity—to owners of developed property.

Florida's Growth Management Act is against the best interest of renters (who tend to have lower incomes than homeowners) who will face higher rents, against the interest of future residents who will find higher housing costs whether they rent or buy, and against the interest of owners of undeveloped property who find it more costly to develop because of growth management regulations. These future residents are people who will migrate to Florida, but they are also the children of current Floridians who will want to purchase a home decades from now.

Florida's Growth Management Act purports to try to manage growth, but it sidesteps the most pressing problems of infrastructure and, as will be discussed below, encourages inefficient development patterns. In short, the Act does not effectively deal with Florida's growth problems, even though the language of the Act tries to eliminate some problems of growth and congestion just by making them illegal. The Act might be viewed as a statement of good intentions, but good intentions are not sufficient to manage growth. Some provisions of the Act will aggravate the state's growth problems.

Transfer of Rights through Florida's Growth Management Act

One of the potentially significant features of the concurrency requirement in Florida's Growth Management Act is the degree to which development can be challenged on concurrency grounds. From a legal standpoint, almost anyone has legal standing to oppose development on concurrency grounds.¹¹ The following Florida Statutes (F.S.) are relevant in this regard:

(1) It is the intent of the legislature that substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan [F.S. 163.3213].

(1) Any aggrieved or adversely affected party may maintain an action for injunctive or other relief against any local government to prevent such local government from taking any action on a development order, as defined in F.S. 163.3164, which materially alters the use of density or intensity of use on a particular piece of property that is not consistent with the comprehensive plan adopted under this part.

¹¹See Taub (1988) on this point.

(2) “Aggrieved or adversely affected party” means any person or local government which will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation, facilities, health care facilities, equipment or services, or environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large, but shall exceed in degree the general interest in community good shared by all persons [F.S. 163.3215].

The law clearly gives almost anyone the legal right to claim to be an “aggrieved or adversely affected party” and to stall any development to make sure that the development is in accordance with the local comprehensive plan. An individual who feels a new development will degrade levels of service on roadways, or will harm the environment, is explicitly given legal standing to oppose the development. Of course, the owners of developed property will oppose new development. Earlier discussion illustrates how owners of developed property can gain by opposing new development, and this discussion on the law shows that they clearly have the legal standing to oppose development on concurrency grounds.

Levels of Service

One of the key mechanisms by which Florida’s Growth Management Act can manage growth is by applying levels of service as specified in the local comprehensive plans. The concurrency requirement applies to all infrastructure, but in practice the most significant and controversial aspects of the concurrency requirement deal with roads. One challenge in the planning process is defining the roadway capacity that is necessary to meet the concurrency requirement.

The local comprehensive plans specify levels of service to be provided by infrastructure, and local governments are able to set their own levels of service for infrastructure, providing that they receive state approval.¹² The levels of service specified in the comprehensive plans then define the levels of service required for concurrency. Any development that would reduce the level of service below that specified in the plan cannot be approved.

There has been extensive discussion about the merits of the Growth Management Act as a mechanism for producing orderly

¹²Brevard County was the first to submit a plan, but it was rejected by the state. For a discussion, see Winters (1989).

growth.¹³ The discussion seems to focus on building infrastructure to accompany development, but this strategy could miss the mark on two counts. First, additional roads may do little to lower congestion, and second, less-restrictive land use regulations could lower the burden on infrastructure.

The Amount of Infrastructure and Levels of Service

Roads are a scarce resource that are made more congested because, except in rare instances, there is no direct charge made for their use. Inefficient resource allocation results when scarce resources are owned in common and when anyone is allowed access at no cost. The inefficiency arises because nobody has an incentive to consider the costs their behavior imposes on others.¹⁴ Drivers who enter congested highways impose costs on every other driver by slowing the progress of others, yet each individual driver has no incentive to consider the effects on others of entering the highway.

If all roads were toll roads, tolls could be charged to discourage use at peak hours. Ideally, the toll would rise during congested hours and would fall (perhaps to zero) when the road was not congested, thus discouraging use when the road is already crowded. In the absence of a toll, congestion acts as the only way to discourage travel at peak hours. Congestion is a rationing device, but it is not an efficient rationing device. Using congestion to ration roadway use gives preference to those who value their time the least, rather than those who value travel the most.

Congestion on roadways gives people an incentive to travel at off-peak hours. It also gives them an incentive to take fewer trips (doing more on each trip) and to live closer to where they work. Improving the roads will not necessarily reduce congestion, because better roads will entice more travel at peak hours, will encourage more driving, and will lower the cost of living far from one's workplace. Thus, there is not necessarily a direct relationship between the amount of infrastructure and the level of service provided.

Levels of service from a given infrastructure could be improved by encouraging development of work and shopping areas around the perimeter of urban areas rather than restricting it by zoning or other means to a central area. With a central work area, roads are congested in one direction in the morning as people go to work and in the other in the evening as they return home. Disbursed work areas create a

¹³See, for examples, 1,000 Friends of Florida (1988), Taub (1988), and Wilson (1989).

¹⁴An insightful discussion on efficient use of common resources appears in Cheung (1970).

more even two-way flow of traffic and can improve the level of service from a given level of infrastructure. In an overly simplified model of commuting from suburbs to central city, population growth increases average commuting distance as suburbs are developed farther away, but if workplaces are spread around the perimeter of an urban area, people will find it easier to live near where they work, thus lessening commuting distances.

In Los Angeles, often considered to be one of the worst examples of urban sprawl, only 3 percent of the work force works downtown. Peter Gordon and Harry Richardson (1989) have identified 19 major activity centers in the Los Angeles area, but even these major activity areas account for only 17.5 percent of the area's jobs. The largest share of the Los Angeles work force lives and works in the suburbs, and those individuals face an average commute of 20 minutes. The burden on the infrastructure can be lessened by disbursing workplaces around the perimeter of an urban area rather than forcing everyone to commute to and from a central city, but ironically, zoning laws—and now comprehensive planning—will aid in producing additional congestion by preventing disbursed development.

Urban sprawl does not necessarily increase commuting distances; it may shorten them, if business development is not restricted from the perimeter of a city. Urban sprawl also might lessen the environmental impact of development if it allows more of the natural environment to remain intact. High-density housing will typically eliminate the natural landscape, for example, while a house on a two-acre lot will have little impact on the environment. In some areas of Florida, stormwater runoff is a problem, but while almost all water becomes runoff in high-density areas, low-density development can be designed to produce almost no runoff and, in some cases, might even absorb runoff from high-density areas. In this case, urban sprawl has the potential to help solve one of problems of development. One of the goals of comprehensive planning is to “discourage the proliferation of urban sprawl,”¹⁵ but as this paragraph suggests, urban sprawl is not unequivocally undesirable when compared to the alternative of high-density urban areas.

The Governor's Task Force on Urban Growth Patterns clearly considers urban sprawl to be a problem. According to the Task Force, “most of Florida's future growth will be accommodated through sprawling, low-density development on raw land, with jobs and housing moving ever away from existing urban centers, unless decisive action is taken at every level of government and by the private

¹⁵Florida Administrative Code Rule 9J.5.006(b)7.

sector to reverse this trend and promote efficient, compact urban development patterns" (Rotella et al. 1989, p. 1). This urban sprawl can reduce commuting distances, can lessen environmental impacts, and can afford better lifestyles to Florida's residents if workplaces can develop outside urban centers. The report illustrates that the population density of Florida cities has been declining over several decades, but normally, having the population live in less-crowded conditions is considered an improvement in the standard of living. Unquestionably, there are drawbacks to having more urban centers of smaller size and to having lower-density development. But while recognizing these costs, many critics of urban sprawl overlook the potential benefits.

The State of Florida has contributed to urban sprawl around Florida's major cities. The University of South Florida in Tampa and the University of Central Florida in Orlando were both built a substantial distance away from population centers in those cities, yet development after the establishment of those universities has allowed those in the university communities to live closer to the universities, reducing commuting and the associated burden on the infrastructure. In contrast, Florida State University is in downtown Tallahassee, causing university commuters to compete with other downtown workers for space on the roads, adding to congestion. Those who oppose urban sprawl ought to argue that the location of FSU in Tallahassee is more desirable than that of USF and UCF in Tampa and Orlando. Would the residents of Tampa and Orlando really rather have those universities located downtown to reduce urban sprawl?

People who like things the way they are today would view urban sprawl as undesirable, but in a growing state the alternative to urban sprawl is not the way things are today. The question is whether future growth will shoehorn more people into urban areas and increase population density or will allow disbursed growth with less crowding. Critics of urban sprawl who live in relatively large houses on big lots and who might be reluctant to move into more crowded conditions themselves should consider why they believe it desirable for others to live in those conditions.

Lower-density development may or may not be desirable in specific cases, but public policy in Florida has taken the side against lower-density development without recognizing that it can bring some benefits. If this policy is carried out, it will prevent more disbursed development when such would be desirable and will add to the congestion problem. Public policy ought to weigh the costs against the benefits when considering development density, rather than being automatically biased against low-density development. It

is clear that a policy that unequivocally opposes urban sprawl is not in the best interest of either the citizens of Florida or the environment in general.

This section illustrates some of the conceptual problems with, and some alternatives to, attacking the concurrency problem by using tax dollars to build infrastructure. There is not necessarily a direct relationship between money spent on road construction and the amount of congestion on roadways, and policies designed to solve infrastructure inadequacies simply by spending more money will not necessarily succeed. If this point is obvious, it has not been made clear in some of the debate on the issue, which centers on where the money will come from to finance improvements in infrastructure.¹⁶

Goals versus Results: A Preliminary Assessment

Florida's Growth Management Act is only a few years old, so it is too early to assess the performance of the Act. It is, however, possible to make a preliminary assessment on the basis of the stated goals of the Act and of the likely results of the Act's provisions that were intended to further those goals. Many, but not all, of the stated goals of growth management are uncontroversial. But the Act is structured in a way that is likely to lead to unintended negative consequences.

Most people would agree with the broad goals of producing orderly growth, of protecting the environment, and of producing infrastructure concurrent with development. The goal of preventing urban sprawl is more controversial, at least partly because urban sprawl has not been precisely defined.¹⁷ Given that the state is growing, it is not clear that in all cases high-density development is more desirable than low-density development; there are strong arguments to be made for the benefits of smaller high-density areas disbursed throughout an area as opposed to a single, concentrated, high-density area surrounded by suburbs. Urban sprawl has a negative connotation, but for a given amount of growth, lower-density development is not necessarily less desirable than higher-density development.

Another important issue is the legitimate question about the way in which infrastructure demands ought to be met. Simply building more roads in already congested areas might result in little visible

¹⁶Taub (1988), for instance, contemplates whether the concurrency doctrine will be an effective moratorium on development or will provide the impetus to fund infrastructure improvements.

¹⁷See, however, the Florida Department of Community Affairs *Technical Memo*, Vol. 4, no. 4 (undated), which does attempt to identify both the undesirable characteristics of urban sprawl and what local governments can do to avoid them in local comprehensive plans.

impact because, without charging for access to those roads, additional capacity will simply encourage more use from those already in the area. Congestion acts as a rationing device; adding capacity encourages more use at peak hours, encourages more frequent travel, and reduces the incentive to live close to where one works. Yet the Growth Management Act's emphasis on concurrency has focused the discussion on where the resources will come from to fund infrastructure rather than on innovative approaches to solving the infrastructure problem.

When resources are allocated through the private sector of the economy, distributional issues are secondary because all parties have an incentive to structure trades so that everyone gains. Otherwise, trade would not take place. When resources are allocated through the public sector, distributional issues are important because, unless unanimous consent is required, there is always the possibility that some individuals will impose costs on other nonconsenting individuals through the political process.¹⁸ In the democratic political process, property rights are poorly defined. As such, individuals can use the political process to benefit themselves at the expense of others. This is why the distributional aspects of growth management are likely to be the driving force behind any actual policies that are implemented.

While the stated intentions of Florida's Growth Management Act are in large part desirable, the consequences of the Act will not measure up to its goals. If the Act is enforced as it is written, it will transfer private property rights from property owners to those who are politically active, it will slow growth, increase the value of developed property, and decrease the value of undeveloped property. It will make property inside designated urban areas more valuable, and property outside areas designated for development less valuable. It will create political conflict because any development can be challenged within the concurrency requirement of the Act.

If Florida's Growth Management Act is strictly interpreted, rents and housing prices in Florida will rise as a result. Unfortunately, the connection between growth management and housing prices is not likely to be clearly drawn in political debate. Thus, proponents of affordable housing are not likely to attribute skyrocketing housing prices to the statewide regulation of land use mandated in the Act. In situations like this, the result is often additional political action,

¹⁸Buchanan (1976) discusses the fiscal exchange model of taxation, which posits that taxes are a price paid for government output. This model implies that those using the government output should be the same ones who pay for it.

such as subsidized housing or rent controls, to offset the unintended negative results of the initial political action.

If Florida's Growth Management Act is loosely interpreted, the negative consequences could be limited to the costs of drawing up local comprehensive plans, the modification of those plans, and the legal expenses of developers and of the state in complying with the law. This outcome would be desirable compared to the economic and political costs that would result from a strict interpretation of the Act.

Conclusion

While this paper deals specifically with Florida's experience with growth management, there are broader lessons that apply to growth management movements in any state. Fundamentally, what growth management means is taking some rights away from the nominal owners of property and making them subject to the political decision-making process. As a result, rights that at one time were clearly defined become more poorly defined, and the problem of common ownership arises.

If the owner of a piece of property has the right to develop it, then the market provides incentives for the property to be developed in its most highly valued use. When the development of property is contingent upon political approval, the same market signals are not as effective. This reasoning applies to statewide growth management, as exists in Florida and Oregon, and also to zoning and other restrictions on the use of property. With growth management in general, and with Florida's concurrency rule in particular, poorly defined rights to develop property produce an incentive to develop too rapidly. If the possibility of developing a piece of property exists at the present but may be taken away in the future, then the developer has an incentive to develop now rather than risk losing the right. Ironically, laws designed to control development can perversely encourage development that is inefficiently rapid. The problem arises from a transfer of private property rights into common ownership through growth management legislation.

The economic justification for growth management legislation is that externalities produced by development should be controlled by government, but because of the common ownership problem, growth management legislation is a poor method of control. Private property owners have the incentive to use their property in its most highly valued use, and public planning is unlikely to improve upon these private decisions (Siegan 1970, 1972). If it is in the public interest to

leave some environmentally sensitive land undeveloped, or if some land should be used for parks or other public purposes, then the solution is for the government to buy it, rather than regulate its use by private owners. But note that if, for example, parks are socially desirable in neighborhoods, developers themselves have the incentive to produce them in order to increase the market value of the other land they develop and sell.

By taking the right to develop away from the nominal property owner and making it a political decision, inefficient development patterns are more likely because market signals are absent or distorted. As argued above, the standard plan for development in Florida will produce suboptimal land use patterns and will result in more traffic congestion than if the market were allowed to dictate land use patterns. In an effort to prevent "urban sprawl," Florida planners will force more distant commutes from suburbs to central cities by preventing business and commercial development outside already existing central urban areas. In general, land use planning is a method for overriding market signals about the efficient use of land and thus, in general, will produce inefficient development.

Fundamentally, growth management laws are a method of transferring some ownership rights of property from some people to others. One way that a person can acquire the right to determine the use of a piece of property is to buy it. But another way is to pass a law that transfers that right into the political process and then uses political power to dictate the way the property is used.¹⁹ Growth management is popular because it allows the proponents of the legislation to dictate how land is used by taking the right away from its current owners rather than buying it. But it is inefficient because the resulting right is owned in common rather than privately owned. Economists are well aware of the inefficiencies that arise from common ownership, such as is produced by growth management legislation.

While this paper has focused on growth management legislation as it has affected Florida, similar laws exist in other states, and there is the potential for such legislation everywhere. Perhaps a case study of Florida's Growth Management Act can provide a general warning. Legislation intended to get people to use their property in a publicly responsible way rather than for purely private gain has a nice ring to it. With growth management legislation, this means appropriating peoples' property and overriding the market in a way that is both unfair and inefficient. The results of the law are quite different from their stated intentions.

¹⁹The result is taxation by regulation, to use the words of Posner (1971).

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LAND USE REGULATIONS SHOULD PRESERVE ONLY VITAL AND PRESSING GOVERNMENTAL INTERESTS

Bernard H. Siegan

The Failure of Planning

Land is a precious and scarce natural resource. It should be used to best provide for the needs and desires of the people. This objective will best be realized if the use and development of land is left to the private marketplace, except in those instances when government has a vital and pressing need to impose regulation. The great lesson of our times is that the forces of production, conservation, and creativity rest principally in the marketplace and not in government. True, private entrepreneurs act largely in their own self-interest, but probably no more so than people in government, and their endeavors in the economic area are much more oriented toward the general welfare.¹

This wisdom is now subscribed to by government leaders throughout the world including those in China, the Soviet Union, and other Eastern bloc countries.² Zbigniew Brzezinski, who served during the

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¹This view is consistent with the "public choice perspective" advanced by James M. Buchanan, Nobel Laureate in Economics for 1986. He emphasizes self-interest as the motivating factor in both private and political choice. However, the forces of the economics marketplace are more likely to channel individual self-interest into socially desirable outcomes. See, for example, Buchanan and Tullock (1962), and Buchanan (1987).

²Indicative of the greater acceptance of capitalist theory, 50 countries during the past 10 years—including most major industrial countries—have significantly reduced their maximum marginal tax rates on individual incomes. In the United States, this rate was 70 percent in 1979 and 28 percent in 1989 (Reynolds 1989).