
Land-Use Controllers Never Quit

BY STEVEN GREENHUT

"Any excuse will serve a tyrant"

—Aesop

In a sensible world the folks who had predicted doom and gloom because of dramatic increases in the price of gasoline would be revising their scenarios now that gas prices have fallen.

My article in November's *Freeman* ("Gas Prices: The Latest Excuse to Re-engineer Society," www.tinyurl.com/cjlolx) extensively quoted environmental/New Urbanist writer James Howard Kunstler gleefully pointing to soaring oil prices—the result, he argued, of "unsustainable" policies that promote urban sprawl. Those prices will signal the end, he added, of America's "Happy Motoring utopia." (I'd love some logical explanation of the word "sustainable," but I digress.)

Then in the short period between my writing the article and its arrival in your mailbox, local gas prices fell from about \$4.50 a gallon, with predictions by analysts of ever-escalating prices, shortages, and gas lines, to about 2 bucks a gallon, with predictions of prices going even lower. As I write this, there are no gas lines and local stations can barely give the stuff away at around \$1.59. Who knows where prices are as you read this, but the fluctuations suggest that some economic factor is at work that probably can't be explained by Kunstler's "unsustainability" hysteria.

Yet his analysis hasn't changed. Writing in late November for the Whiskey and Gunpowder blog,

Kunstler offers the same solutions without directly addressing the change in his oil-pricing forecasts, but this time he keys off the latest crisis du jour—the sub-prime housing problem and potential collapse of the U.S. auto industry: "All the activities based on getting something-for-nothing are dead or dying now, in particular buying houses and cars on credit and so it should not be a surprise that the two major victims are the housing and car industries. Notice, by the way, that these are the two major ingredients of an economy based on building suburban sprawl. That's over, too."

I quote Kunstler because he says forthrightly what most of those in the Smart Growth, New Urbanist, and environmental movements refuse to say directly. These folks want a radical transformation of the economic system in a statist direction (Kunstler argues that "a much larger proportion of the

U.S. population will have to be employed in growing the food we eat"), complete government control over land-use decisions, and policies that coerce Americans out of their cars and into mass-transit systems, especially rail lines. Here's where the Aesop quote above comes in handy: No matter what the economic circumstances—high gas prices or low, housing boom or bust—Kunstler and his ilk declare that the situation is proof that Americans must radically change the way they live.



A smart-growth housing project.
EPA Smart Growth

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None of this would be worth taking seriously except that recently the California legislature passed and Gov. Arnold Schwarzenegger signed a law that attempts to establish a planning regime based on the notions outlined above. Although gas prices and the housing situation were part of the debate for SB 375, the real rationale for its passage was—drum roll please—the so-called crisis of global warming. The bill radically changes land-use law in California, yet it was passed on a mostly partisan basis with little public discourse or notice. Granted, Californians are used to having their property rights assaulted for a variety of reasons, but this measure was big even for this state. Few newspapers extensively covered the debate over the bill, and those that did generally supported it. Few Californians have ever heard of it. I've talked with legislators—including a couple of supporters—who are unfamiliar with its contents, even though its advocates and detractors agree that it is one of the most significant laws to come out of Sacramento in a decade.

"This legislation constitutes the most sweeping revision of land-use policies since Gov. Ronald Reagan signed the California Environmental Quality Act," said Schwarzenegger. Its author, Senate Leader Darrell Steinberg, said the bill "will be used as the national framework for fighting sprawl and transforming inevitable growth to smart growth." Although the pro-Smart Growth California Planning and Development Report complained that the bill is too based on incentives rather than regulation, it declared: "It's more powerful than advertised because it contains potentially revolutionary changes in California's arcane processes of regional planning for transportation and housing—largely by mandating the creation of 'sustainable' regional growth plans. And those changes could become more important . . . when the California Air Resources Board is expected to double the greenhouse gas emissions reduction targets that local governments must meet through land-use planning."

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Other supporters compare its passage to that of the California Coastal Act (creating the authoritarian California Coastal Commission, which has untrammelled power to dictate land-use decisions near the coast) and to Proposition 13 (limiting property taxes) in terms of significance. They appear to be right.

It All Started with Global Warming

In 2006 Schwarzenegger signed into law AB 32, designed to steeply reduce California's so-called greenhouse gas emissions. AB 32 gave state officials widespread authority to regulate business to halt these emissions, but it largely left untouched emissions from cars and trucks. That's where SB 375 comes in. Vehicle emissions are to be reduced partly through land-use plans designed to cut miles traveled.

It was an amazingly slippery slope that took California from the dubious theory of manmade global warming—and the even more dubious idea that the California legislature, which can't even come close to balancing its budget, can save the entire earth from temperature change—to draconian regulations that could outlaw (or at least severely punish local governments that allow) the creation of new suburban-style subdivisions in this largely suburban and quickly growing state.

And despite the governor's prattle about "market mechanisms," there is nothing market-oriented about unelected regulators telling local officials that they must stop private developers from building what they term suburban sprawl or else lose transportation funds.

As with any political fad, it's hard to separate the shysters from the true believers. Many developers love Smart Growth because it provides a politically correct means to lobby for something they always want—approvals to build highly lucrative, higher-density housing projects. In many communities it's tough for developers to gain approval to build high rises, condominiums, and houses on tiny lots. It's not always easy to market these projects either, as long as there are readily available single-family alternatives. The current

suburban zoning restrictions often forbid higher densities, and NIMBY (Not In My Back Yard) activists often oppose plans to add density to their neighborhoods.

Now, with global warming the “in” thing, developers can claim to be helping the environment. They can talk about how their projects conform to California’s ever-tightening land-use restrictions. As a side note, I advocate dramatic reduction in land-use regulations of all kinds so that neither high-density nor low-density developments are mandated. The market should determine these matters, not regulators. It’s true that what critics call sprawl has to a large degree been mandated by government, but the solution is to stop mandating, not to mandate urban-style developments that will supposedly help deal with global warming. Yet the latter is all the rage in the world of government planning.

Smart Growth blogger Paul Shigley, writing about a conference held by the California chapter of the American Planning Association last year, noted: “Clearly, land use planners have gotten the green religion. Every session—heck, every conversation in the hallway—seems to touch on global warming.

It’s the old Baptist and Bootlegger scenario, like during Prohibition when the Baptist foes of liquor teamed up with bootleggers, who wanted to keep Prohibition going to stifle the legal competition. Here we see the true green religionists working with developers to assure that all California communities must promote high-density developments, transit-oriented projects, and other highly subsidized government-backed programs.

Some developers aren’t all that keen on the new types of buildings that will be mandated, but they have accepted the “deal” that SB 375 will streamline the environmental review process. As conservative political observer Stephen Frank of the California Political News and Views explained, “They are in for a shock. The environmentalists will use other laws to end the streamlining, like AB 32 and federal regulations.”

A Heated Argument

It’s strange that there is little discussion over whether forced urbanization will actually reduce global warming. Libertarian blogger and activist Wayne Lusvardi of Pasadena argues on Frank’s website that “Concentrating housing development in already highly dense urban areas will only worsen the urban heat island effect and thus increase ‘global warming.’ The obvious solution from the greenhouse effect resulting from pollution is dispersion, not concentration.” The U.S. Environmental Protection Agency explains: “Heat islands can affect communities by increasing summertime peak energy demand, air conditioning costs, air pollution and greenhouse gas emissions, heat-related illness and mortality, and water quality.”

It’s a reasonable point to at least consider before undertaking government policies that cram more people into urban areas. Another related point raised by

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Lusvardi: “The environmental intent of SB 375 is to reduce auto commuter trips, air pollution and gasoline consumption. However, the legislation will unintentionally result in more reliance on imported water supplies from the Sacramento Delta, Mono Lake and the Colorado River for thirsty cities along California’s coastline instead of diverting development to inland areas which have more ‘sustainable’ groundwater supplies.”

Clearly, these are questions that need to be analyzed scientifically, but I have more than a small suspicion that those who promote urbanization will do so no matter what it does for the climate. The answer for them is always the same: more urbanization. Don’t worry about the exact question.

The result of SB 375 will be that an “unaccountable tribunal can set any greenhouse-gas target for the 17 regional transportation agencies that it wants,” wrote Auburn City Councilman Kevin Hanley in a September 29 *Sacramento Bee* column. “If this unaccountable tribunal decides that the ‘sustainable communities strategy’ doesn’t cut the mustard, then the SACOG (Sacramento Area Council of Governments) will have to submit an ‘alternative planning strategy’ showing how

the greenhouse-gas targets will be achieved in the region through alternative development patterns, infrastructure or additional transportation measures or policies. They want to change where we live and how we get to work.”

Becoming like Marin

For a real-world idea of what these anti-global-warming crusaders have in mind, take a look at Marin County, the wealthy suburban county just north of San Francisco. Government officials in Marin have been doing for years what Attorney General Jerry Brown and other environmentalists want the rest of us in California to do. As *Sacramento Bee* columnist Dan Weintraub explains, “Brown, in fact, cites Marin as a model for how every local government should be complying with the California Environmental Quality Act, which requires cities and counties to identify potential environmental impacts from proposed developments and take reasonable measures to mitigate them.”

Marin County has overall low density but that’s only because most of the land is off limits to development. Most people live in a few fairly dense communities along the main freeway, and Smart Growthers—in Marin and elsewhere—seek to force all new growth into the existing urban footprint.

One person’s reasonableness is another’s insanity. In an *Orange County Register* column in August 2007, I

looked at how Marin deals with development matters. For instance, 84 percent of the county’s land is set aside by the local, state, or federal government as permanent open space. The developers I know who have tried to build anything on the remaining 16 percent explain that local and county restrictions make it nearly impossible to do so. It’s even worse to build there than in the rest of this highly restrictive state.

“California has more than 36 million residents and is expected by some projections to have 60 million by 2050,” I wrote at the time. “If other counties embrace Marin’s overall approach toward development, the newcomers will have nowhere to live. . . . Smug state officials might believe that Marin County is successfully battling global warming and urban sprawl, but these no-growth policies simply are pushing sprawl and all the global-warming-inducing development toward the outer reaches of the Bay Area.”

With SB 375, state officials have the tools to stop the growth in those outer reaches. It’s not hard to figure out what happens next. Although

this is now state law, there still are a few years before its full implementation, which means there’s still time for the legislature to turn this radical antisprawl law into something less destructive of property rights and the American Dream. But this being California, don’t count on anything rational taking place in the legislature.

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Think of a Number: A Theory of Rational Forecasting

BY ANTHONY DE JASAY

Recently, an economist gained notoriety and filled his appointment diary with lucrative conferences by having some of his forecasts for U.S. economic data, made two years ago and looking quite eccentric at the time, come gloriously true. This random event inspires me to put forward the sketch of a theory of rational forecasting.

Suppose that 500 of the most distinguished academic, industry, and Wall Street economists are polled for their best guess of the U.S. unemployment rate and the Dow Jones Industrial Average 12 months from now. As each has a reputation to preserve, none will stick his neck out with an outlandish forecast that has but a tiny probability of coming out right—even though it would earn him a jackpot if it did. Therefore, the forecasts of the 500 will cluster in a narrow range of, say, 7–11 percent for the unemployment rate and between 7500 and 9500 for the Dow.

What is left for the 250,000 other, less-distinguished economists to do to gain fame and fortune? They too can offer forecasts and might put them on some record. If they place them in the cluster and the actual outcome is in the cluster, they remain unremarked and neither gain nor lose anything. If they go way outside the cluster and the outcome is in the cluster, nobody

will remember the wrong forecast made a year earlier. They will again gain nothing and lose nothing. If their forecast is in the cluster and the actual outcome is way outside it, they will be in the good company of their 500 more-distinguished fellows and will again remain unremarked.



Philosopher and mathematician Blaise Pascal.

There is, therefore, a single rational forecasting mode for our undistinguished economist to adopt. Let him think of a number for the unemployment rate and one for the Dow Jones index—say 23 percent and 4000, respectively. He can easily draft a scenario for the next 12 months full of horrors and glitches that would make the forecast numbers plausible. The probability that either one of his numbers will turn out right is very small and that both will turn out right is even smaller. As we have seen, if both his numbers are wrong, he is no worse off. But if one is right, he is richly rewarded, while if both his numbers are right, he gets riches beyond the dreams of

avarice (RBDA).

In slightly more formal terms, he has access to a positive-sum game against nature. The worst payoff is zero and the best is RBDA. The sum is necessarily pos-

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