

Touro College Jacob D. Fuchsberg Law Center

From the Selected Works of Michael E Lewyn

Spring 2018

Explaining Market Urbanism

Michael Lewyn



Available at: <https://works.bepress.com/lewyn/161/>

manager at your
calls from apart-
; tenants and ea-

§ 1431, or—as in
—invokes it too
ature, EPA must
ore frequently to
and protect pub-
its obligation to
king water.”¹⁵

er do? An annual
ay be prudent. A
ex to assure that
ad-free norms is
the local govern-
e well worth the
uids tend to lose
essence of acidic

Zoning and Land Use Planning

Michael Lewyn*

EXPLAINING MARKET URBANISM

A wide variety of movements have claimed the word “Urbanism” such as New Urbanism,¹ and Landscape Urbanism.² The purpose of this article is to describe a smaller, newer movement: Market Urbanism. While New Urbanism focuses on promoting walkability, and Landscape Urbanism focuses on protecting the natural environment, Market Urbanism (in the words of the movement’s leading blog) seeks to reconcile “classic liberal economics and ethics (market) with an appreciation of the urban way of life and its benefits to society (urbanism).”³ Part I of this article describes the background of these movements, showing how New Urbanism and Landscape Urbanism were reactions to the growth of automobile-dependent sprawl, while Market Urbanism has been a reaction to the recent rebirth of some American cities. Part II compares Market Urbanism to New Urbanism, and Part III compares Market Urbanism to the views of pro-sprawl commentators (and to Landscape Urbanism as well).

*Associate Professor, Touro Law Center. B.A., Wesleyan University; J.D., University of Pennsylvania Law School; L.L.M., University of Toronto. I would like to thank Nolan Gray for his helpful comments. And in the interests of full disclosure, I note that I am both a member of the Congress for The New Urbanism and a blogger on the Market Urbanism (marketurbanism.com) website.

¹See Leon Neyfakh, *Green Building*, Boston Globe, Jan. 30, 2011, at http://archive.boston.com/yourtown/cambridge/articles/2011/01/30/green_building/?%2520page=full. (new urbanists favor “denser, more diverse towns where people could walk to work and to the store — places where neighbors might wave hello to one another from their porches instead of climbing into car in a detached garage and driving away alone.”).

²*Id.* (landscape urbanists seek to accommodate car-dependent suburban sprawl but with more environmentally friendly design).

³Market Urbanism, at www.marketurbanism.com.

I. Background: From Sprawl to New Urbanism to Market Urbanism

In the late 20th century, the rise of suburbia transformed metropolitan America. Of the eighteen American central cities that had over 500,000 people in 1950, all but four have lost population in the past six decades.⁴ Five of these cities (St. Louis, Detroit, Cleveland, Pittsburgh and Buffalo) have lost more than half of their 1950 population.⁵ As cities lost population, their suburbs grew.⁶ For example, the city of Detroit's population decreased from 1.85 million to less than a million,⁷ while the rest of the region's population increased from 1.3 million to 3.4 million.⁸ Even in regions where central cities grew, suburbs grew far faster: the population of the city of Los Angeles nearly doubled, while the regional population almost tripled.⁹

These trends were at least partially a result of pro-suburban government spending policies: throughout the 20th century, government at all levels built highways from city to suburb, thus making it easier for commuters to move to suburbs.¹⁰ In addition, the federal courts artificially made suburban public school districts more attractive in the late 20th century, by forcing urban school districts to desegregate while allowing the formation of overwhelmingly white,

⁴See SARAH JANSSEN, ED., *THE WORLD ALMANAC AND BOOK OF FACTS 2017*, at 614. The four exceptions were New York, Los Angeles, Houston and San Francisco. *Id.* Two of these four (New York and San Francisco) lost population for decades but bounced back after 1980. *Id.* One of the other two (Houston) gained population only because it annexed vast amounts of territory after 1950. See ALAN BERUBE ET. AL., *REDEFINING URBAN AND SUBURBAN AMERICA: EVIDENCE FROM CENSUS 2000* at 61-62 (2006).

⁵See JANSSEN, *supra* note 4, at 613.

⁶See Jordan Rappoport, *U.S. Urban Decline and Growth, 1950 to 2000*, 88 *Federal Reserve Bank of Kansas City Economic Review* 15, 37 (2003) (metro area population grew almost everywhere, even though many central cities declined).

⁷*Id.* at 35.

⁸*Id.* at 37 (figure obtained by subtracting city population from metro area population).

⁹*Id.* at 35 (city population increased from 1.9 million to 3.6 million), 37 (regional population increased from 4.4 million to 13.1 million).

¹⁰See MICHAEL LEWYN, *GOVERNMENT INTERVENTION AND SUBURBAN SPRAWL: THE CASE FOR MARKET URBANISM* 27-29 (2017).

homogenously middle and upper-class suburban school districts.¹¹

Many suburbs (and even urban neighborhoods) built in the late 20th century adopted an automobile-oriented form of development often referred to as "sprawl": houses are not within walking distance of jobs or shopping, and streets are too wide to be comfortably crossed on foot.¹² This form of development is at least partially a result of zoning rules and other government guidelines: for example, zoning laws typically prohibit shops from being on the same streets as housing,¹³ and artificially limit population density¹⁴ (thus limiting the number of people who can live within walking distance of a commercial street). In addition, government often designs very wide streets in order to accommodate fast automotive traffic.¹⁵ For example, in Tuscon, Arizona, major "collector" streets must be 90-120 feet wide, and "arterial" streets (the most heavily traveled streets other than limited-access highways) must be six lanes and 150 feet wide.¹⁶

In recent decades, a wide variety of activists and analysts have criticized sprawl. They assert that sprawl increases pollution by creating environments where most Americans

¹¹*Id.* at 40-47. See also *id.* at 59-64 (describing pro-suburban housing policies).

¹²See Todd Litman, *Evaluating Criticism of Smart Growth* 4-5, at <http://www.vtppi.org/sgrcritics.pdf>.

¹³See WILLIAM A. FISCHEL, *ZONING RULES: THE ECONOMICS OF LAND USE REGULATION* 29 (2015).

¹⁴See Albert N. Benshoff, *Out of Focus: The Fuzzy Line Between Regulatory "Takings" and Valid Zoning Related "Exactions" in North Carolina and Federal Jurisprudence*, 16 CAMPBELL L. REV. 333, 340 (1994) (typical urban North Carolina 'single family residential' zoning district allows a maximum density of approximately four dwelling units per acre); DAVID M.P. FREUND, *COLORED PROPERTY: STATE POLICY AND WHITE RACIAL POLITICS IN SUBURBAN AMERICA* 229 (2010) (in 1960s, one-fourth of an acre typical minimum lot size); Gerritt Knapp et. al., *Zoning as a Barrier to Multifamily Housing Development* 17 at https://www.huduser.gov/Publications/pdf/zoning_MultifmlyDev.pdf (in regions surveyed, ratio between zoned residential acres and number of households ranged between 0.15 and 0.49).

¹⁵See Stephen H. Burrington, *Restoring the Rule of Law and Respect for Communities in Transportation*, 5 N.Y.U. ENVTL. L.J. 691, 701 (1996) (traffic engineers build wide streets out of "solicitude towards fast traffic").

¹⁶See EMILY TALEN, *CITY RULES: HOW REGULATIONS AFFECT URBAN FORM* 162 (2012).

need to drive to reach work and other destinations, while more walkable development would reduce pollution by reducing vehicle miles traveled.¹⁷ Moreover, automobile-dependent development ensures that “people too young, too poor, or too disabled to drive are virtually shut out of the labor market.”¹⁸ And because walking is difficult in auto-oriented suburbs, sprawl may harm public health by reducing the public’s ability to walk.¹⁹

In 1993, a group of architects gave this opposition an institutional base by creating the Congress for New Urbanism (CNU).²⁰ CNU’s Charter endorses “the restoration of existing urban centers and towns within coherent metropolitan regions [and] the reconfiguration of sprawling suburbs into communities of real neighborhoods and diverse districts.”²¹ To achieve these goals, the Charter asserts that “communities should be designed for the pedestrian and transit as well as the car.”²² New urbanists seek to achieve that goal by:

- allowing small shops in residential neighborhoods, so that people can walk to shops more easily;²³
- allowing more density than in typical suburbs, so that more people can live within walking distance of shops and public transit;²⁴
- encouraging shops to be in front of sidewalks rather

¹⁷ See Lewyn, *supra* note 10, at 4.

¹⁸ *Id.* at 9.

¹⁹ *Id.* at 14–15.

²⁰ See Michael Lewyn, *New Urbanist Zoning for Dummies*, 58 ALA. L. REV. 257, 266 (2006). I note that there are other movements with similar objectives, including the smart growth movement (which is similar to New Urbanism but less focused on urban design) and movements focused on narrower topics such as cyclist and pedestrian interests. See, e.g. Smart Growth America, *Our Vision*, at <https://smartgrowthamerica.org/our-vision/>; America Walks, *a Walkable America*, at <http://americawalks.org/a-walkable-america/>.

²¹ The Charter of the New Urbanism, at <https://www.cnu.org/who-we-are/charter-new-urbanism> (“Charter”).

²² *Id.*

²³ See Lewyn, *supra* note 20, at 273 (describing SmartCode, a zoning code written by new urbanists).

²⁴ *Id.* at 276–77 (same).

than being set back behind large parking lots, so that pedestrians can reach those shops more easily;²⁵ and

- allowing narrow, interconnected streets to facilitate walking, rather than wide streets that encourage automobiles to drive at speeds likely to maim or kill pedestrians.²⁶

New Urbanism has been somewhat successful; there have been about 500-600 New Urbanist developments in the United States,²⁷ and their high prices suggest that they are popular with homebuyers. For example, homebuyers are willing to pay 15 percent more for homes in Kentlands (a new urbanist community in Washington, D.C.'s Maryland suburbs) than for comparable homes in other Washington suburbs.²⁸

In addition, "old urbanism" (that is, older housing near downtowns) have become more popular in recent years. For example, downtown populations in the fifty largest U.S. metropolitan areas have increased from 1.3 million in 1990 to 1.52 million in 2013.²⁹ The revitalization of urban life is not limited to downtowns: several cities that lost population in the 1970s have gained population since 2000, including New York, Philadelphia, San Francisco, Atlanta, and Washington.³⁰

Nevertheless, suburbs and automobile-oriented development continues to dominate American life. Suburbs continue

²⁵*Id.* at 277-84 (comparing SmartCode to conventional zoning codes, which require such setbacks and also require landowners to devote more space to automobile parking than the SmartCode).

²⁶*Id.* at 284-90 (comparing SmartCode to more conventional rules).

²⁷See LEIGH GALLAGHER: *THE END OF THE SUBURBS* 120-25 (2013).

²⁸*Id.* at 131-32. However, new urbanist developments are not limited to suburbs. See 30A Beach Happy, *New Urbanism*, at <https://30a.com/architecture-and-new-urbanism/> (describing new urbanist resorts in Florida); The Town Paper, *TND Neighborhoods*, at <http://www.tndtownpaper.com/neighborhoods.htm> (listing numerous urban as well as suburban developments).

²⁹See Luke Juday, *The Changing Shape of America's Metro Areas*, at <http://statchatva.org/changing-shape-of-american-cities>.

³⁰See JANSSEN, *supra* note 4, at 614.

to grow,³¹ and the percentage of commuters using public transportation or walking to work has not significantly increased during the 2010s.³² Pro-sprawl critiques of new urbanism are based in large part on the continued success of sprawl: supporters of the status quo argue that sprawl is a result of the free market and of affluence, and should not be limited by government regulation.³³

Another intellectual movement, called Landscape Urbanism, does not share the New Urbanist focus on reforming sprawl. The term "Landscape Urbanism" was developed in the mid-1990s by architecture professors³⁴ and Landscape Urbanism is most popular in architecture schools.³⁵ Landscape urbanists' primary interest is "weaving nature and city together into a new hybrid that functions like a living

³¹See Tara Bahrapour, *Cities Growing More Slowly Than Suburbs For The First Time In Six Years*, Washington Post, May 25, 2017, at https://www.washingtonpost.com/local/social-issues/cities-growing-more-slowly-than-suburbs-for-the-first-time-in-six-years/2017/05/24/aecce0f36-40bc-11e7-adba-394ee67a7582_story.html?utm_term=.c205b5078205 (noting that recent Census data shows suburbs growing more rapidly, but adding that this was not true earlier in decade).

³²See U.S. Census Bureau, *American Factfinder*, at https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml (transit "mode share" increased from 4.9 percent of commuters in 2010 to 5.1 percent in 2015; pedestrian share held steady at 2.8 percent); but see Steven Polzin, *Travel Trends? Are They Changing?* at <https://www.planetizen.com/blogs/95137-travel-trends-are-they-changing> (asserting that auto use has increased, and transit use declined, since 2015).

³³See, e.g., ROBERT BRUEGMANN, *SPRAWL: A COMPACT HISTORY* 10 (2005) (suggesting that sprawl a "predictable result of increasing wealth"); Michael Stewart, *Growth and Its Implications: An Evaluation of Tennessee's Growth Management Plan*, 67 TENN. L. REV. 983, 993 (2000) ("defenders of sprawl argue that sprawl is a result of people's preferences"). Cf. BENJAMIN ROSS, *DEAD END: SPRAWL AND THE REBIRTH OF AMERICAN URBANISM* 142-146 (2015) (noting that this point of view especially common among conservatives).

³⁴See GRAHAME SHANE, *THE EMERGENCE OF LANDSCAPE URBANISM*, in CHARLES WALDHEIM ED., *THE LANDSCAPE URBANISM READER* 55, 58 (2006) (crediting Charles Waldheim with term).

³⁵See Neyfakh, *supra* note 1 (landscape urbanists "rising to power at one of the most influential architecture academies in the country: the Graduate School of Design at Harvard University.").

ecosystem.”³⁶ They believe “that the best way for urban designers to protect the environment is to prioritize the natural landscape. Design should accommodate the waterways and the wildlife that were there before you arrived; it should preserve the rainfall instead of shunting it into sewers, and perhaps use it to irrigate nearby vegetation.”³⁷ This sort of development pattern can exist in a car-dependent suburb or in a walkable neighborhood.

Landscape urbanists do not go out of their way to defend sprawl; however, they tend to take sprawl for granted rather than to propose reform. Landscape urbanist Charles Waldheim, for example, has suggested that new urbanists favor “a kind of 19th century image of the city, that said if we could put the toothpaste back in the tube of automobility, we could all get out of our cars, and live the right way, the kind of moral and just way, we could somehow reproduce some social justice and some environmental health that we feel as though we’ve lost.”³⁸ Similarly, landscape urbanist James Corner describes sprawl as “the new urban reality”³⁹ and states that while “many theories of urbanism attempt to ignore this fact or retrofit it to new urbanism, landscape urbanism accepts it and tries to understand it.”⁴⁰ Despite the popularity of landscape urbanism in the academy, landscape urbanists have not built neighborhoods as new urbanists have done. Instead, landscape urbanists have mostly built parks.⁴¹

The market urbanist movement is newer than New Urbanism or Landscape Urbanism. The first reference to “market urbanists” in a book was in a 2015 book written by activist Ben Ross, who wrote that “a school of libertarian urbanists

³⁶ *Id.*

³⁷ *Id.*

³⁸ Michael Mehaffy, *Landscape Urbanism: Sprawl in a Pretty Green Dress?*, at <https://www.planetizen.com/node/46262>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ See SHANE, *supra* note 34, at 62. For example, the High Line, a new park in New York City, is arguably a landscape urbanist project. See Nikil Saval, *Our New Urban Oases*, New York Times Magazine, Nov. 10, 2016 at <https://www.nytimes.com/interactive/2016/11/13/magazine/design-issue-redesigned-public-spaces.html> (noting that Corner designed High Line).

has emerged, propounding a free-market case against sprawl⁴² but added that “market urbanists’ independent thinking is of little interest to the conservative establishment.”⁴³

The market urbanist movement is partially a response to some commentators’ attempts to equate sprawl and the free market. Defenders of the status quo see sprawl as an expression of the free market, while market urbanists emphasize the role of zoning and other government policies in creating sprawl.⁴⁴

Market urbanism is also a response to the renewed growth of central cities. While some cities continue to decline, others have rebounded from their 20th-century population losses.⁴⁵ Some recent economic scholarship has centered on why dense cities are still attractive to people and businesses, despite their higher land costs⁴⁶ and their higher levels of crime and poverty.⁴⁷ These scholars argue that urban development makes economic sense because of “agglomeration economies,”⁴⁸ the benefits that arise when people and businesses locate near each other.⁴⁹ These economies include the ability for firms and workers to specialize where there is a wider variety of potential customers nearby, as well as the ability of firms and workers to learn from nearby competitors.⁵⁰ While defenders of sprawl argue that the rise of the automobile made density obsolete by reducing transportation costs, market urbanists see cities as economically efficient.

The rising popularity of urban living may have contributed to an explosion in housing costs. Since 2000, housing prices in city centers have increased 50 percent more rapidly than

⁴²Ross, *supra* note 33, at 146.

⁴³*Id.*

⁴⁴*See supra* note 33 (examples).

⁴⁵*See supra* notes 29–30 and accompanying text.

⁴⁶*See* Daniel B. Rodriguez and David Schleicher, *The Location Market*, 19 GEO. MASON L. REV. 637, 641 (2012).

⁴⁷*See* Lewyn, *supra* note 10, at 73–74.

⁴⁸*See* Rodriguez and Schleicher, *supra* note 46, at 640.

⁴⁹*Id.*

⁵⁰*Id.* at 641–45.

in metropolitan areas generally.⁵¹ The market urbanist movement is in part a response to this problem; market urbanists believe that the free market can at least partially solve the problem of rising urban rents.

There are no major market urbanist organizations comparable to CNU.⁵² However, there are numerous market urbanist blogs and websites.⁵³ In addition, market urbanists provide intellectual ammunition for the YIMBY (Yes In My Back Yard) movement, a movement of community activists who seek to increase housing supply in high-cost cities. YIMBYs have focused on electing city council candidates who will amend zoning laws to allow more housing construction,⁵⁴ supporting pro-housing ballot initiatives,⁵⁵ and lobbying city councils and state legislatures.⁵⁶

II. Market Urbanism: How Similar to New Urbanism? How Different?

Market urbanists, like new urbanists, value walkable cities. Like new urbanists, they generally oppose government regulations that encourage or mandate automobile-

⁵¹See FitchRatings, *Fitch: U.S. Housing Demand Pendulum Swinging Back Towards City Centers*, at <https://www.fitchratings.com/site/pr/989360>.

⁵²A "Center for Market Urbanism" is in the process of being formed; however, it does not yet have some of the common attributes of a functional organization such as an office or website. Cf. Nolan Gray, *The Positive Power of Preemption*, Citylab, August 13, 2017 at <https://www.citylab.com/equity/2017/08/the-positive-power-of-preemption/536241/> (author described as policy director of Center).

⁵³See, e.g., Market Urbanism, *supra* note 3; The Market Urbanism Report, at <https://marketurbanismreport.com/>.

⁵⁴See Blanca Torres, *Is Palo Alto About to Go YIMBY?*, San Francisco Business Times, Nov. 13, 2017 (YIMBY candidate elected to Palo Alto, Ca. city council); Staff, *Our View: We Are Entering the Age of the YIMBY*, San Francisco Business Times, Nov. 16, 2017 (describing YIMBY candidate in San Francisco municipal elections).

⁵⁵*Id.* ("A YIMBY-sponsored ballot initiative is being pushed in San Francisco to make it easier to build affordable housing").

⁵⁶See Erin McCormick, *Rise of the yimbys: angry millennials with a radical housing solution*, The Guardian, Oct. 2, 2017 (YIMBYs lobby local councils and in "the California state legislature, yimby activists have helped Democrats pass a sweeping new package of legislation designed to spur the creation of affordable housing").

oriented development. For example, both market urbanists and new urbanists tend to believe that:

- minimum parking requirements artificially increase driving by making driving easier while making it harder for walkers to reach shops surrounded by parking lots;⁵⁷
- regulations limiting population density force Americans into cars, because few residents of low-density areas can live within walking distance of public transit or other destinations;⁵⁸
- Government has unnecessarily spread suburbia by subsidizing city-to-suburb highways;⁵⁹ and
- Wide streets make traffic less safe by enabling speeding.⁶⁰

However, new urbanists are primarily motivated by environmental and aesthetic concerns: they believe that sprawl is environmentally unsustainable because it increases

⁵⁷ See, e.g., Stephen Smith, *Even in a HUD Project in a high-density Bronx neighborhood can't escape the parking minimum*, Market Urbanism, Feb. 24, 2011, at <http://marketurbanism.com/2011/02/24/even-hud-project-in-high-density-bronx-neighborhood-cant-escape-the-parking-minimum/> (requirements "absurdly restrictive"); Robert Steuteville, *Great Idea: Rethinking Parking*, Congress for New Urbanism, June 5, 2017, at <https://www.cnu.org/publicsquare/2017/06/05/great-idea-rethinking-parking> (panel discussion emphasizing that parking requirements facilitate driving).

⁵⁸ *Id.* (density limits insure that 'you have to travel a distance to get from your house to a job and a store'); Jeff Fong, *Urban Density, Mass Transit and Uber*, Market Urbanism, Sept. 9, 2015 at <http://marketurbanism.com/2015/09/09/urban-density-mass-transit-and-uber/> (transit and taxicabs "both rely on urban density as their benefactor").

⁵⁹ See Adam Hengels, March 22, 2016, *Rothbard The Urbanist Part 7: Pricing Highways*, at <http://marketurbanism.com/2016/03/22/rothbard-the-urbanist-part-7-pricing-highways/> (as a result of government highway spending, "we have a overbuilt highway system, urban neighborhoods were eviscerated, [and] suburbs spread far and wide"); Robert Steuteville, *Great Idea: Freeways Without Futures*, Congress for New Urbanism, Nov. 27, 2017, at <https://www.cnu.org/publicsquare/2017/11/22/great-idea-freeways-without-futures>.

⁶⁰ See Emily Hamilton, *Engineering In the Dark*, Market Urbanism, August 28, 2015, at <http://marketurbanism.com/2015/08/28/engineering-in-the-dark/> ("narrower streets are in fact safer in neighborhoods", citing leading New Urbanist writer Jeff Speck).

auto emissions, inequitable because it disfavors nondrivers, and simply ugly.⁶¹

Market urbanists tend to be more focused on economic concerns, especially the cost of housing. For example, market urbanist Nolan Gray points out that when zoning limits the supply of apartments, rents increase, thus diminishing public access to city life.⁶² Market urbanists also emphasize the fiscal cost of sprawl: if a city builds out rather than up, it has to build new infrastructure: for example, a suburban “cul de sac might have 50 feet of street pipe per resident, whereas an apartment building might have 5 feet.”⁶³

These distinctions can lead to policy differences. Because market urbanists tend to value markets and housing supply more than do new urbanists, they generally believe that government should rarely intervene to limit new housing. For example, one market urbanist writer criticizes historic preservation laws, because “[u]sing political power to preserve any cherished way of life ... is not only futile but ultimately destructive of liberty. This goes for preserving a historic community as much as preserving current marriage practices”.⁶⁴ On a more utilitarian note, Edward Glaeser has argued that historic preservation laws, by limiting new

⁶¹ See Charter, *supra* note 21 (emphasis that development should allow “independence to those who do not drive, especially the elderly and young” and should be designed to “reduce the number and length of automobile trips, and conserve energy”); Congress for the New Urbanism, *Canons of Sustainable Architecture and Urbanism*, at https://www.cnu.org/sites/default/files/Canons_0.pdf (focusing in more detail on environmental issues); Robert Steuteville, *Congress Covers New Urbanism Basics*, July 1, 2001 (essay on CNU webpage referring to “ugliness of cities overwhelmed by concrete highways”).

⁶² See Nolan Gray, *A Strong Citizen's Introduction to Market Urbanism*, at <https://www.strongtowns.org/journal/2017/6/14/a-strong-citizens-introduction-to-market-urbanism>; Alan Lytle, *Urban Planning Advocate Says Lexington Should Look at Revising Zoning Laws Before Expanding USB*, at <http://wuky.org/post/urban-planning-advocate-says-lexington-should-look-revising-zoning-laws-expanding-usb#stream/0>.

⁶³ Andrew Criscione, *The Rent is Too High and the Commute is Too Long: We Need Market Urbanism*, at <http://marketurbanism.com/2017/11/27/rent-too-high-commute-too-long/>.

⁶⁴ Sandy Ikeda, *Preservation at the Expense of Liberty*, Market Urbanism, Nov. 8, 2016, at <http://www.marketurbanism.com/2016/11/08/preservation-at-the-expense-of-liberty/>.

construction, causes housing prices and rents to increase.⁶⁵ By contrast, new urbanists are often strong supporters of historic preservation: they tend to believe that older buildings are more appealing and tend to make neighborhoods more valuable.⁶⁶ Some commentators also argue that older buildings generate fewer greenhouse gases than newer ones, because of the energy required to construct a new building.⁶⁷

Market urbanists tend to be more willing than new urbanists to accept high-rises, suggesting that even expensive tall buildings increase affordability by increasing citywide housing supply.⁶⁸ By contrast, new urbanists often oppose high-rises on aesthetic grounds, questioning whether high-rises are good for street life.⁶⁹

Market urbanists and new urbanists may also differ as to the merits of anti-sprawl regulations such as urban growth

⁶⁵ See Sarah P. Harrell, *From the Big Apple to Big Ben: International Guidance for Abu Dhabi's Modern Heritage Preservation Initiative*, 24 IND. INT'L & COMP. L. REV. 547, 564 (2014) (Glaeser writes that New York law "has led to over-landmarking, impeding new construction and causing real estate prices to go up").

⁶⁶ See, e.g., Robert Steuteville, *Preservation and urbanism go hand in hand*, Public Square: A CNU Journal, Oct. 27, 2016, at <https://www.cnu.org/publicsquare/2016/10/27/preservation-and-urbanism-go-hand-in-hand> (suggesting that older buildings more "lovable"); MICHAEL W. MEHAFFY, CITIES ALIVE: JANE JACOBS, CHRISTOPHER ALEXANDER AND THE ROOTS OF THE NEW URBAN RENAISSANCE 185 (2017) (claiming that "old buildings tend to be more affordable").

⁶⁷ See, e.g., Clarissa Sebag-Montefiore, *Preserving historical buildings: the most sustainable thing is not to build new stuff*, The Guardian, Oct. 12, 2016, at <https://www.theguardian.com/sustainable-business/architecture-design-blog/2016/oct/13/preserving-historical-buildings-the-most-sustainable-thing-is-not-to-build-new-stuff>.

⁶⁸ See Ed Glaeser, *How Skyscrapers Can Save the City*, The Atlantic, March 2011, at <https://www.theatlantic.com/magazine/archive/2011/03/how-skyscrapers-can-save-the-city/308387/>.

⁶⁹ See MEHAFFY, *supra* note 66, at 249–53 (praising policies of German city with six-story height limit); Robert Steuteville, *Cities for People*, Public Square: A CNU Journal, March 24, 2011, at <https://www.cnu.org/publicsquare/cities-people> (Danish designer Jan Gehl argues that "buildings that are tall add little to urban livability" and that high-rises often surrounded by "dark, unattractive streets"). But see *contra* Michael Lewyn, *High rises and Streetlife*, Planetizen, Jan. 23, 2015, at <https://www.planetizen.com/node/73409/high-rises-and-streetlife> (noting high levels of streetlife in midtown Manhattan despite the presence of many high-rises).

boundaries that prevent suburbia from expanding into rural areas.⁷⁰ Some new urbanists see such limits as necessary to combat the negative social and environmental effects of sprawl. Libertarian-minded market urbanists, by contrast, tend to emphasize that such regulations artificially limit housing supply and thus might increase housing costs.⁷¹

Finally, market urbanists and new urbanists do not always share the same attitude towards public transit. The CNU Charter writes that "Transit, bicycle and pedestrian systems should maximize access and mobility throughout the region while reducing dependence on the automobile."⁷² This attitude flows naturally from new urbanists' concerns about the environmental costs and social inequities caused by sprawl.⁷³ By contrast, market urbanists worry about the efficiency of public transit, and some have gone so far as to endorse transit privatization.⁷⁴

III. Market Urbanism vs. Landscape Urbanism (and Suburbanism)

As noted above, landscape urbanists and defenders of suburban sprawl (or for lack of a better word, "suburbanists") take suburbia as a given: they believe that since suburbia dominates the American landscape, it must be unstoppable.⁷⁵

As noted above, market urbanists emphasize that sprawl is in large part a creature of government regulation. Govern-

⁷⁰Cf. Robert Stacey, *Urban Growth Boundaries: Saying 'Yes' to Strengthening Communities*, 34 CONN. L. REV. 597, 598 (2002) (Oregon's growth boundaries allow almost no residential development outside boundary).

⁷¹See Emily Hamilton, *Book Review: The Well-Tempered City*, Market Urbanism, Oct. 6, 2016, at <http://marketurbanism.com/2016/10/06/book-review-the-well-tempered-city> (reviewing book by pro-new urbanist author, and noting that author "advocates preserving farmland without talking about how urban growth boundaries increase housing prices").

⁷²See Charter, *supra* note 21.

⁷³See *supra* notes 17-19 and accompanying text.

⁷⁴See *More About The Market Urbanism Report*, The Market Urbanism Report, at <https://marketurbanismreport.com/more-about-market-urbanism> (writing that "existing public systems would be cheaper and faster if they escaped government control and functioned on private-sector principles" and thus supporting "reform or privatization of public transit [and] growth of private transit entrepreneurship").

⁷⁵See *supra* notes 38-40 and accompanying text.

ment creates regulations that make it difficult for Americans to walk from their homes to jobs or shops or public transit; government creates highways that make it easier to reach car-dependent suburbs than to commute by bike or foot or public transit; government creates streets that are virtually unusable for walkers.⁷⁶ And what government has done with regulation, it can undo with deregulation.⁷⁷

However, market urbanists do have something in common with suburbanists: market urbanists do value the free market, and like many defenders of the status quo, they are skeptical of anti-sprawl public planning.

III. Conclusion

The market urbanist movement blends the ideas of suburbanists and new urbanists: like suburbanists, they oppose some anti-sprawl regulations, and like new urbanists, they oppose most pro-sprawl regulations. But they are actually more radical than new urbanists in their support of compact, walkable development, because they are more focused on housing affordability than on aesthetic and environmental concerns.

⁷⁶See *supra* notes 13-16 and accompanying text.

⁷⁷See Lewyn, *supra* note 10, at 149-51 (setting forth deregulatory pro-urbanist agenda).