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A Libertarian Smart Growth Agenda

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A LIBERTARIAN SMART GROWTH AGENDA

Public debate over American suburbanization has been dominated by two visions or theories of metropolitan development: an anti-sprawl “smart growth” vision and an anti-regulation “libertarian” or “property rights” vision. The purpose of my paper is to show how these visions can be reconciled.

First, I’d like to briefly explain the two visions. Smart growth advocates contend that America’s suburban sprawl has imposed a wide variety of social costs upon Americans, such as pollution from increased driving, decay of older neighborhoods, and lost opportunities for nondrivers. More recently, smart growth supporters have expressed concern that sprawl increases greenhouse gas emissions and thus accelerates global warming, and have pointed out that by making Americans more dependent on their cars, sprawl makes us all more vulnerable to unstable oil prices. To remedy this problem, smart growth advocates generally favor redevelopment of cities and older suburbs, limits on the expansion of suburbia into the countryside, and laws encouraging or even mandating that new development become more pedestrian-friendly. By contrast, “property rights” advocates argue that in a free society, property rights should nearly always trump public interests justifying regulation, and accordingly assert that government should do nothing to discourage automobile-dependent suburban development. Supporters of this vision sometimes assert that sprawl is an expression of consumer preferences in the free market- and what the market has put together, let no man tear asunder.

I believe that these visions are at least partially reconcilable, because the smart growth movement’s goals can in large part be furthered through legal reforms that would reduce government regulation. So even if smart growth advocates and property rights advocates will have to agree to disagree about the merits of anti-sprawl regulations, they can still find common ground in opposing pro-sprawl regulations.

What sort of regulations am I talking about? To begin with, let me explain what makes some places automobile-dependent and others less so. A neighborhood’s friendliness to pedestrians and transit users depends on three factors: density, diversity and design. Density makes walking, biking and transit ridership easier because in a compact neighborhood, more people will live within walking distance of a transit stop, shop or office than in a thinly populated area. Diversity means a diversity of land uses: areas where housing and commerce are at least somewhat mixed together are areas where people can walk from one to the other. And design means that where streets are designed to be safe and comfortable for pedestrians, more people will walk to jobs, shops and transit stops. In each of these areas, local land use regulation tends to favor sprawl as opposed to smart growth. Thus, a libertarian smart growth agenda would seek to eliminate or modify these regulations.

Let me start with density. American land use regulation has consistently sought to limit population density, usually through regulations requiring homes and apartments to consume large amounts of land. For example, in some parts of Atlanta, local zoning

requires houses to sit on at least two acres of land. Such regulations offend smart growth values because, as I mentioned earlier, low-density zoning means that a pedestrian will have few amenities within walking distance of home. They also offend libertarian values by dictating how a landowner can use her land. So what's our agenda? The boldest, most libertarian solution would of course be to simply eliminate all density-related regulation (perhaps through a state law preempting local zoning on this issue), except in certain unusual situations such as environmentally sensitive areas. If landowners could build as many dwellings per acre as they liked, they would have more freedom, and American neighborhoods would be more compact and thus more walkable. A more moderate deregulatory program might limit this sort of change to core cities where increased density would change neighborhood character less and would be less likely to interfere with open space and other natural amenities.

Let's talk about diversity. Typically, American zoning law limits diversity through zoning codes that separate every major form of human activity from every other form of human activity. This system of single-use zoning ensures that housing will often be far from offices or shops, thus effectively requiring people to drive to make the simplest purchase. Thus, single-use zoning offends smart growth values- and by prohibiting landowners from building housing in commercial areas it also offends property rights values. The obvious solution would simply be to abolish zoning- but given the dangers of polluting industries and homeowners' desire to protect the peace and quiet of their neighborhoods, this level of deregulation might be neither politically feasible nor substantively desirable. But even if homeowners are averse to mixed use, I see no reason why landowners should not be able to mix commerce with multifamily dwellings, which by nature are already more heavily trafficked than single-family zones.

Finally, government regulation also affects design, in two major ways.

First, government typically requires landowners to provide customers, visitors, and guests with off-street parking. In fact, most cities and counties require offices and shopping centers to devote about half their total area to parking and driveways. By forcing landowners to surround shops and offices with parking lots, these regulations force pedestrians and bicyclists to walk through parking lots to reach destinations, thus making pedestrian commutes longer and more unpleasant. In addition, these requirements also make cities more car-dependent by artificially reducing density, since every acre used for parking can't be used for housing, shops or offices. Finally, these regulations artificially subsidize driving, since by creating a glut of parking, they drive the market price of parking down to zero except in the most congested areas. This problem too can be solved through free market principles: abolish minimum parking requirements and let the market decide how many parking spaces businesses need to install. (There are a variety of compromise proposals that my paper suggests, but in the interests in time I won't discuss them here).

Government also mandates anti-pedestrian design through street width rules. For example, in Jacksonville, Florida, the city's comprehensive plan mandates that "major arterials" be at least 150 feet wide- effectively eight or ten lanes. Such wide streets are

unpleasant and dangerous for pedestrians and other nondrivers because a wide street takes more time to cross, and often means faster traffic as well (which in turn means driver/pedestrian crashes are more likely to be fatal). In addition, wide streets reduce density by taking land for roads that could otherwise be used for housing. The smart growth implications of ten-lane streets may be obvious- but what are the property rights implications? Streets are usually public property- so the wider the street, the more property the government gets to take through eminent domain. Moreover, major roads can significantly burden taxpayers. So what's the solution? This issue is not amenable to a bright line solution, because government must create some streets. The SmartCode, a model zoning code created by a team of architects and planners, gives some useful guidelines. (For info go to www.smartcodecentral.com). In the most urban zone, the widest possible street has four lanes of traffic, plus two lanes for on-street parking. In quieter, less intense zones, the widest street can be 36 feet, including on-street parking- essentially precluding streets more than two or three lanes except in the busiest areas. This would be beneficial from a smart growth perspective because narrower streets are more pedestrian-friendly, and from a property rights perspective by limiting the use of eminent domain and road spending.

In sum, the smart growth and property rights movements should be able to find common ground in a wide variety of areas. An aggressively libertarian smart growth agenda would limit use-based zoning, reduce government regulation of density, eliminate minimum parking requirements, and create narrower streets.