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> To What Extent and in What Ways Should Governmental Bodies Regulate Urban Planning?

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Introduction

This controversy piece introduces readers to the New Urbanism (NU), a movement in architecture and planning that advocates the use of traditional neighborhood design to build walkable, mixed-use neighborhoods and towns that emulate places of enduring quality and provide an alternative to low-density, single-use, automobile-dependent development patterns commonly referred to as "sprawl." Critics maintain that what is derided as sprawl is simply the development pattern of choice as generated by market forces over time and that NU and related smart-growth policies and transit initiatives are at odds with the lifestyle preferences and homeownership goals of Americans. This essay explores these and other arguments that grossly simplify and misinterpret NU and present an outdated, myopic view of an ever-changing and diversifying real estate market in the United States.

New Urbanism

Herbert Muschamp, architectural critic for the *New York Times*, has described NU as the "most important phenomenon to emerge in American architecture in the post-Cold War era." Complete with its own Charter, annual conferences, and growing membership in the official Congress for the New Urbanism (CNU) organization, the movement attracts comparisons to the International Congress of Modern Architecture (CIAM), the equivalent

organization for modernism, even while it defines itself in direct opposition to modernist architecture and planning. Dubbed an architectural fad by many observers in the early 1980s, the movement has continued to grow and diversify its base for more than two decades and shows no signs of waning.

NU is an umbrella term, encompassing the traditional neighborhood development (TND), or "neotraditional" town planning, of Andres Duany and Elizabeth Plater-Zyberk; the pedestrian pocket concept presented in Kelbaugh's book of the same title (1989); the transit-oriented design (TOD) articulated by Peter Calthorpe and Shelly Poticha, and; the "quartiers" approach of Leon Krier. New Urbanist design principles operate on a number of scales, from buildings, lots and blocks to neighborhoods, districts and corridors, and ultimately to entire cities and regions. Shared principles call for organizing development into patterns consistent with historic hamlets, villages, towns, and cities that were compact, walkable, mixed-use, and transit-friendly and contained a diverse range of housing.

Contrary to common critiques, New Urbanists do *not* advocate elimination of automobiles. In fact, New Urbanist design focuses heavily on how to manage traffic and accommodate parking without creating what James Kunstler refers to as "automobile slums." This involves calming traffic on quiet residential streets and main streets where people like to walk, and placing parking behind buildings, in courtyards, parking structures, and on street spaces to eliminate the moat of parking lots that push buildings apart and prevent the creation of human-scale public spaces. New Urbanist projects, particularly those involving intensive office and retail uses, regularly meet either *conventional* (single-use) or shared parking ratios (parking spaces per one thousand square feet of leasable space) defined by the real estate industry.

The neighborhood is advanced as an essential building block and is presented as an "update" of Clarence Perry's concept of the neighborhood unit in the First Regional Plan of New York (1929) that copes with today's larger institutions and heavier traffic volumes.³ The neighborhood is defined as an area approximating a five-to-ten minute walk from center to edge assuring that neighborhood activities are within a convenient walking distance of residents. Within the neighborhood are located a variety of housing types and land uses, a mix of shops, services, and civic uses capable of satisfying many of the residents' daily needs. Streets are designed for pedestrian use, with generous sidewalks, street trees, and on-street parking to provide a buffer from street traffic and to make walking a more safe and appealing option. Buildings are built close to the street to help define neighborhood public space in the

form of streets, squares, and plazas. Small parks and civic institutions are given prominent sites and dispersed throughout the neighborhood.

A neighborhood center, main street, or town center provides a focal point for shopping, dining, services and transit, and the civic life of the community. In dense urban settings, the center is most likely to focus on a commercial corridor at the edge of a neighborhood, with residential areas fanning out in a roughly semicircular pattern away from the corridor. Classic examples of this include streetcar suburbs that sprouted from transit nodes and later developed into major commercial corridors. 4 Collectively, these are some of the principles constituting what New Urbanists call "traditional urbanism" or "traditional neighborhood development," built patterns and relationships that have been recurring in hamlets, villages, towns, and cities of all sizes for thousands of years but which became disrupted in the twentieth century.5

The design principles and techniques of NU have resonated with the goals and agendas of individuals and organizations from other fields including environmental protection, sustainable development, historic preservation, mixedincome housing programs (such as HUD's HOPE VI program), growth management, transit, pedestrian and bicycle planning, and main street programs. While NU is typically lumped in together with all manner of smart-growth policymaking, ranging from urban growth boundaries to transfer of development rights to light rail initiatives, NU is focused on generating very specific place-making guidelines and techniques for the physical planning and design of streets, buildings, and public spaces. These place-making techniques are distilled from studying the physical characteristics and qualities of the very best historic models that have endured for decades and, often centuries, adapting to changing circumstances in retailing, transportation technologies, and cultural and demographic trends while continuing to attract new residents and new businesses. New Urbanists cite the enduring popularity of traditional neighborhoods and towns such as Nantucket, Rhode Island; Alexandria; Virginia, Georgetown in D.C.; Brookline and other streetcar suburbs of Boston, Massachusetts; historic Charleston, South Carolina; and Savannah, Georgia, as evidence of the continued attractiveness of walkable, diverse, urban atmospheres.

Critiques of New Urbanism

There is no shortage of NU critics in academia, ranging in their topics from transportation,⁶ to air quality,⁷ quality of life,⁸ social, and even postmodern cultural implications.⁹ A growing number of these academics and "think tank"

researchers are focusing all or most of their work on the critique of smart-growth policies and planning. These include Peter Gordon and Harry Richardson, two economists with the University of Southern California's Planning School, Randall O'Toole of the Thoreau Institute, and Wendell Cox, a consultant who specializes in the critique of transit.

Unfortunately, most of these observers have only a cursory understanding of what NU is, or intentionally lump it together with all manner of smart-growth policies, planning regulations, environmental legislation, and transit initiatives as an amorphous, anti-market planning package. Critiques of urban growth boundaries, ridership projections for light rail lines, and the environmental, social, and economic costs of sprawl are all interesting and important debates related to the broad policy areas of smart growth, but they miss the fact that NU is primarily concerned with the physical planning and design of streets, buildings, public spaces, neighborhoods, and towns.

Portland, Oregon, a leader in smart-growth policy nationwide, has been a favorite target of smart-growth critics. One of the more strident critiques of Portland, Oregon's planning, however, has come, not from O'Toole or Cox but from Andres Duany, one of the founders of the Congress of the New Urbanism. Duany contends that, while Portland's policy efforts to control sprawl are worthy, they have done little to change the pattern and quality of growth where it is permitted to occur. NU's greatest contribution comes not at a macro-policy level but at the level of site planning, neighborhood design, and development. "The difference between the New Urbanism and Smart Growth," Duany maintains, "is that while both desire the same outcome, the New Urbanism is conceived as private-sector and market-driven while Smart Growth is based on government policy and proscriptions."

While opposing sides have done battle through a stream of policy debates and crude, pseudo-scientific inquiries, New Urbanists have operated on a more pragmatic level to find the means to actually build neighborhoods with the qualities they espouse: walkable, tree-lined streets with a mix of housing types, public gathering places, and mixed-use town centers and main streets. This has provided researchers who are capable of conducting primary research with dozens of built New Urbanist projects in cities and suburbs, and several hundred more under construction, that can be evaluated in terms of their performance within their limited spheres of influence (i.e., islands of New Urbanist neighborhoods within a regional pattern of sprawl cannot be expected to impact regional commuting patterns, air quality, and other macro-indicators). Ironically, as the number of New Urbanist projects on the ground has grown critics have increasingly characterized NU as anti-market.

The Market

The charges that NU is anti-market focus on at least three contradictory arguments. The first is that NU is being forced on an unwitting public through regulation. Second, this implies that there really is not a market for NU or, if there is, it is infinitesimal compared with the market for sprawl. If the market for NU is very small, then planning regulations should support what the market wants (sprawl) and not try to impose what planners think is good for us (NU). The third argument is that NU is too expensive as evidenced in the premiums charged for homes in TNDs and the dramatic appreciation of land and home prices in places such as Kentlands, Celebration, and Seaside. This argument suggests that even if some people do want NU, only the rich will be able to afford it. The first two arguments are akin to painting NU as a Communist plot, while the last apparently reveals a rampant market acceptance of NU. How can both sets of charges be true?

Is New Urbanism a Communist Plot to Overthrow the American Dream?

Contrary to the recent critique of New Urbanism that claims NU is being forced on an unwitting public through land-use regulation, NU's beginnings can be found in the lone acts of isolated developers. In fact, the vast majority of New Urbanist projects have been created entirely through the private sector's acting in complete opposition to local land-use regulations, traffic engineering, and a web of codes, standards, and practices that have created a mass production system for sprawl on a national scale.

The regulatory support for sprawl and barriers for NU have been proven empirically. In a study of 168 cities and counties Pendall's study of land-use regulation found clear links between land-use controls to sprawl, and Talen and Knapp found that: "Mixed-use zoning was limited, smart-growth tools were almost nonexistent, and prescriptive requirements for lot sizes, setbacks, road widths, and parking decidedly favored low-density sprawl and urban fragmentation." If there *is* a plot running through the length and breadth of land-use regulation in the United States, it most assuredly does *not* favor NU.

Does Anyone Want New Urbanism?

Audirac, Gordon and Richardson, and other critics maintain that low density, segregated use, dispersed development ("sprawl") represents the development pattern of choice by an overwhelming number of Americans. In the words of Gordon and Richardson, "That suburbanization itself should be an object of attack is amazing, given the expressed preferences of the majority of Americans for suburban lifestyles and the supposed sanctity of consumer sovereignty."

Likewise, Audirac argues that "preference for low density living has been well-documented in the planning and sociological literature." ¹² The literature cited includes such earth-shaking findings as the preference for single-family home ownership, privacy, the "appeal of a rural ambience," all of which Audirac implies are inconsistent with NU. Yet Audirac's own surveys seem to contradict her arguments, including such findings as "the least-preferred locations were the suburbs of major cities ... and the suburbs and downtowns of small cities," and; "the downtowns of major cities ... and rural and semi-rural areas (were) the most preferred locations." ¹³

Audirac interprets the results of a later survey, focusing on microenvironmental elements such as lot-size, as evidence of an "across-the-board disinclination to trade off private land for public facilities." ¹⁴ There is an inherent problem with this survey approach—which has been used in other studies and the public opinion surveys of the National Association of Homebuilders (NAHB)—since it asks people if they would be willing to give up large lots, privacy, and other characteristics typically associated with the suburban, single-family home paradigm in favor of an unknown, unseen, and alternative never before experienced. Yes, even though Audirac's survey essentially casts the NU option in terms of personal sacrifices, a closer look at the numbers reveals that *one-third* of single-family homeowners and *half* of multi-family dwellers *would* be inclined to trade off private land for public facilities. This represents a potentially enormous market "niche" for would-be developers of NU.

NU, in fact, does not dispute majority preferences for quiet, lower-density residential areas, single-family home ownership, privacy, and access to nature. More important, however, NU is not inconsistent with these preferences. The rural-urban transect of New Urbanist planning identifies the full range of human settlement patterns, ranging from the most rural to the most urban and including the commonplace suburban setting. Smart-growth critics portray NU only as a high-rise, high-density urbanism that a majority of Americans

do not want, while academic critics in planning and architecture routinely criticize NU as nonurban and refer to it as the "new suburbanism." Both of these characterizations are myths. New Urbanists have planned, designed, and built a wide-range urban neighborhood and neighborhood centers from hamlets with single-family homes on large lots surrounded by a rural landscape, to villages and small towns with a mix of detached homes, townhomes, and apartments, and lots of all sizes; on up to urban districts and infill areas of core downtowns. It is only within town centers and larger towns and cities with higher land values that buildings begin to become attached to one another and rise above two to four stories.

NU proponents dispute two key assumptions of those who believe that NU is somehow anti-market: one emphasizing residential development and the other primarily nonresidential development. The first is that a full range of desirable options is already being provided to homebuyers and renters. NU proponents maintain that validating the current settlement patterns based on a market rationale, or public choice theory in which people have "voted with their feet," is baseless since so few real choices exist. The "expressed preferences" honored by Gordon and Richardson can only be seen as choices between a declining central city and a ubiquitous sprawl setting. The choice between brand-new houses in brand-new neighborhoods in the suburbs and old homes in declining neighborhoods fraught with social problems is no choice at all for many homebuyers. The choices of housing and neighborhoods within suburban America recall the famous Henry Ford quip that "An American can have a Ford in any color so long as it's black." Choices are presented in terms of curb appeal, lot sizes, and the numbers of bedrooms and bathrooms, not in terms of walkable streets, public space, and the lifestyle options afforded by mixed-use settings and live/work arrangements.

More important from an academic perspective, the free-market defense of sprawl is simply not supported by the realities of real estate markets, which violate key assumptions of free-market economics, a point summarized by Ewing in "Is Los Angeles-Style Sprawl Desirable":

I view land markets as fraught with imperfections, imperfections that induce sprawl. Recall from Economics 101 that perfectly functioning markets require many buyers and sellers, good information about prices and quality, homogeneous products in each market, no external costs or benefits, and so forth. Land markets meet none of these requirements. The rate of land appreciation is uncertain, causing land speculation and (where speculators guess wrong or land becomes legally encumbered) sprawl (Schmidt 1968; Lindeman 1976; Mills 1981; Fischel 1985, 265–6; Nelson 1990, 1992).

Single-family housing is subsidized through the tax code, a public policy that benefits primarily suburban residents (Peterson 1980; Fischel 1982; Black 1996). Outlying development is subsidized through utility rate structures independent of distance from central facilities (Archer 1973; Sullivan 1985; OTA 1988; Frank 1989). The land market is rife with externalities (Clawson 1971; Lee 1979, 153–4). And government regulation may introduce additional market distortions (Moss 1977; Lee 1979, 159–60; Fischel 1985, 259–61; Fischel, 1990; Barnett 1995). 16

The market is (or, more properly, real estate *markets* are) increasingly multifaceted and not sorted into stable, monolithic chunks of homebuyers or "market segments." In one of the more in-depth studies of residential preferences in recent years, Sidney Brower identified four different types of "good neighborhoods" based on a series of interviews that he conducted in Baltimore, Maryland.¹⁷ "Centers" were recognized as more dense, urban types of neighborhoods associated with city living. "Residential partnerships" were seen as closest to conventional suburban subdivisions representing exclusive, homogeneous, family-directed neighborhoods. "Small towns" were seen to represent a "settled, familiar, friendly type of neighborhood." "Retreats" were understood as places removed from other people and pressures but were interpreted in a variety of forms including gated communities, apartment complexes, and rural retreats.

Perhaps the most striking finding concerned Brower's small-town, neighborhood type, which is consistent with New Urbanist planning. Brower found that the "small-town was the most widely valued type of place, and more people would like to live in small-towns than actually live there" (forty-eight percent to thirty-four percent of those surveyed). Brower's study attempted to distill some thirty-three qualities associated with his broad concepts of ambience, engagement, and choicefulness. The four neighborhood types he identifies probably only scratch the surface of what is a much more complex need for residential diversity and a greater longing for the many qualities of ambience, engagement, and choicefulness neglected in formulaic developments.

The theory that what currently exists reflects what everyone wants is what Kevin Lynch dubbed a *status quo* theory. ¹⁹ Along these lines one could go back to the turn-of-the-century and make a similar argument that Americans were leaving rural farms in droves and moving into incredibly crowded, polluted, industrial cities because they had weighed all the "quality of life" tradeoffs in their heads, made their choice, and got what they wanted. As Lynch

knew, expressed preferences, in general, and residential choice theories, in particular, are meaningless where distinct choices have not existed. Expressed residential preferences can also be expected to gravitate toward the currently inhabited form as a justification for the investment stake and home-buying decision previously made.

While the majority of this discussion has focused on the desirability of *residential* aspects of NU, a related question concerns the desirability of mixeduse, "town centers." Critics, such as Audirac, cite survey results in which respondents are asked how desirable it is to be near various types of individual land uses. This is akin to asking a suburban resident how he or she would like to live next to WalMart, MacDonalds, or a regional shopping mall and, not surprisingly, there is low desirability to live near many types of land uses. In contrast, a 1995 survey asked respondents whether they would prefer a mixeduse, town center surrounding a village green, consistent with the NU paradigm. An overwhelming ninety-five percent indicated that they would, in fact, prefer a town center.²⁰

If the real estate market were only about building widgets, there would be much less interest in this debate. However, real estate development is not simply about the construction of individual buildings and parking lots on isolated parcels; in the aggregate it is about something much larger and significant to all citizens: community building. According to real estate analyst Christopher Leinberger, "The real estate development industry now has nineteen standardized product types—a cookie-cutter array of office, industrial, retail, hotel, apartment, residential, and miscellaneous building types."²¹ Leinberger notes that the formulas for these product types have been refined over many decades, making them relatively "easy and cheap to finance, build, trade, and manage." These development products are clearly successful at meeting the needs of businesses and consumers and form the very fabric of our metropolitan regions. However, while the real estate industry has become very good at building these projects, the projects themselves are not very good at building a community.

While surveys indicate that Americans continue to embrace the singlefamily home and a preference for the small town idea, they also reveal an extraordinary discontent with what Reid Ewing refers to as "the rest of the suburban package." Ewing summarizes a wide variety of research supporting this view, including eleven studies indicating, "given the choice between compact centers and commercial strips, consumers favor the centers by a wide margin." Lending further support are the 1995 American LIVES survey, which

found that nearly seventy percent of those surveyed were unhappy with suburbs as they currently exist, and the Pew Center's February 2000 survey, in which "sprawl" was cited as the number-one concern across the nation.²²

Much of the torrent of media attention focused on the patchwork of strips, centers, and "pods" of separate retail, office, and multifamily developments—an agglomeration that many people consider unattractive, congestion inducing, and mind-numbingly monotonous. The American LIVES survey that reported a remarkable ninety-five percent of suburban homebuyers with a stated preference for town centers also reported that only twenty-nine percent favored the *status quo* consisting of "shopping and civic buildings distributed along commercial strips and in malls." The success of shopping malls and big box stores clearly show that Americans desire great varieties of goods and services, but in terms of community building they clearly want something more, something that is not being delivered in their everyday, built environment—and the market is failing them.

Is It Affordable?

NU is regularly criticized as unaffordable for middle- and lower-income families. The favorite example of critics is Seaside, Florida, which represented the very first implementation of NU concepts. While the town has developed into a high-priced resort town for the rich, this is a function of the real estate market, not the design. For example, consider the costs that one couple encountered in Seaside when it was first started:

Ms. Lovell, for instance, bought her lot for seventeen thousand dollars in 1982. She and her husband, a carpenter, spent three years commuting on weekends from Atlanta to build a four-hundred-square-foot cottage using twenty thousand dollars of materials.²⁴

By virtually any United States standard, the cost of the Lovell's home in Seaside would be considered affordable. So what when "wrong"? The "problem" with Seaside is that it became so popular it was effectively "gentrified" even as it was being built. The rich came and priced everyone else out of the market, running up the price of lots twenty-five percent annually since 1982.²⁵

The response to the argument that NU developments are elitist, upperincome enclaves is that NU prices are a function of supply and demand; there are so few NU projects in existence that they typically sell for a higher price than ubiquitous single-use, low-density developments. This is also a function of developer's caution when introducing a new concept. The developers of the first suburbs such as Riverside, Illinois, and Llewelyn Park, New Jersey, did not aim for the low-end, or middle market of homebuyers; they aimed for the high-end where potentially higher profit margins were insurance against the increased risk of pursuing a new development form.²⁶ This is a rationale confirmed in interviews with NU developers, who are keenly aware of the success of Seaside and other high-profile NU projects, and who are looking to cash in on the premiums that at least one study has shown NU delivers to developers.²⁷

Give Me Liberty ...

To listen to critics, one would think that NU has become the dominant form of development in the United States, threatening to eliminate the vaunted large-lot, single-family home on a cul de sac, zoning out Wal-Mart's, and outlawing drive-through, fast-food restaurants. There is a frenzied call for stamping out smart growth before it is too late and "the planners" destroy the American dream. A look at the numbers for actual real estate investment, however, reveals a strikingly different picture of "the market."

Robert Chapman, who runs the TND Fund, an REIT focused on NU development, periodically reports on the state of NU investment nationwide. In his most recent analysis in the year 2000, he found that the ratio of real estate investment dollars in conventional development versus NU was estimated at 474-to-1.²⁹ This is approximately the ratio between the gross domestic product of the United States and Bangladesh. Thus, the suggestion that NU is a serious anti-market threat to conventional suburban development is analogous to suggesting that the Bangladesh economy is poised to eclipse the United States economy.

An investment ratio of 474-to-1 means that for every dollar spent on a TND there are four hundred seventy-four dollars spent on conventional subdivisions, strip malls, office parks, and apartment complexes. Envisioning this on a regional scale, picture one, isolated TND neighborhood in the midst of a sea of sprawl, dwarfed by four hundred seventy-four projects of equal investment spreading out across the landscape. One TND neighborhood amidst four hundred seventy-four subdivisions. That is a market share of approximately .21 percent of all development. Can it really be possible that only .21 percent of homebuyers and renters would like to live in a TND? Even NU's critics grudgingly acknowledge that there might be a "niche" market of as much as twenty-five to thirty-three percent of new homebuyers for TNDs, and surveys conducted by market research firms such as Zimmerman Volk for dozens of TNDs

have consistently identified significantly larger markets once the housing products are identified and the neighborhood qualities are understood.

What about commercial uses? The American LIVES survey identified the market acceptance of the town center concept at an astounding ninety-five percent of new homebuyers (that is, suburbanites). While now a significant trend in real estate, the town centers and main streets being built represent a tiny fraction of the commercial development in the United States.³⁰ Even if we take the most conservative figure for TND market demand we are left with a market failure of grand proportions, a failure that can only be explained by the web of regulations, codes, and standards that mandate sprawl and outlaw traditional neighborhood design.

Are New Urbanists conspiring to change land-use regulations? You bet they are, because the land-use regulations codified during the great era of sub-urbanization and that currently represent the law of the land effectively outlaw TND: Narrow streets, interconnected grid networks, vertical mixtures of uses, live/work buildings, small urban parks, squares, and plazas, reduced parking requirements, on-street parking, gazebos, street trees, fountains, statuary, and civic art in or near the motorized right-of-way; and countless other offenses are outlawed and subjected to arduous variance and review procedures that cost TND developers far more time and money than does conventional development. New Urbanists simply ask that the anti-market barriers to NU be removed to allow it to be built at least as easily as conventional suburban formats and to allow the supply of TNDs to begin to meet the demand which—if one believes in the market—will bring prices down. Do you think that there is no market for TND? Prove it: Make it legal and put it on a level playing field with conventional suburban development.

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