A Libertarian Smart Growth Agenda

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“Smart growth” is often a dirty word among supporters of smaller government. But if smart growth means support for more walkable, less vehicle-dependent communities, smart growth supporters and libertarian-minded property rights supporters should have much in common. In particular, both movements have excellent reason to oppose numerous elements of American zoning law.

For example, both sprawl critics and small-l libertarians (a phrase I use to include limited-government conservatives as well as more ideologically consistent libertarians) should oppose government regulations that create a separate zone for every human activity: apartments only in zone A, shops only in zone B, offices only in zone C. Under this system of single-use zoning, many Americans cannot live within walking distance of shops or offices.

Single-use zoning limits the landowner’s right to choose how his land is developed and requires landowners to get government permission every time they wish to shift their land from one use to another. Thus, single-use zoning both spreads sprawl and restricts property rights.

Given the widespread view that single-family homes are incompatible with other land uses, a complete elimination of zoning may not be politically practical or even desirable. But both landowners and pedestrians would have more freedom if landowners were allowed to mix multifamily housing with commerce and retail. Accordingly, I propose that multifamily and commercial zones should be merged into one category, which would allow multifamily housing in most commercial zones.

Conventional zoning also requires homes and apartments to gobble up large amounts of land. Minimum lot size requirements effectively choke off the supply not just of walkable neighborhoods, but of all housing. If each residence consumes large amounts of land, fewer residences can be placed within walking distance of shops, jobs, transit stops, or anything else. A smart zoning policy would deregulate density and give Americans more choices for places to live.

Property rights advocates should also support the deregulation of density, because density restrictions limit a landowner's right to use and profit from land as he sees fit. I propose a statewide rule: a municipality should not have the power to limit the number of housing units per acre or square foot (except perhaps in environmentally sensitive areas).
Why a statewide regulation? Why not trust localities? Because local homeowners will naturally want their property to be as valuable as possible, and thus will have an incentive to restrict the supply of housing in order to raise the price of property. Local voters will always err on the side of restriction, creating results that are rational for existing landowners (high prices) but irrational for future homebuyers and renters (who might prefer housing that is both less expensive and more walkable than current zoning allows). It follows that only statewide regulation can maximize landowner freedom.

Of course, some libertarians are already aware of the harm done by single-use restrictions and anti-density zoning. But even more obscure government regulations, such as parking and street design rules, also restrict the options of home seekers and property owners.

Municipal governments often require owners of apartments and commercial buildings to provide renters, employees, and visitors with huge amounts of parking. For example, the city of Houston requires apartment buildings to require 1.25 parking spaces for each studio apartment—even though 17% of Houston’s rental households do not own a single car!

The impact of minimum parking requirements on property rights is obvious: if a landowner must devote X feet of land to parking, that landowner cannot use those X feet of land for more profitable purposes such as apartments or offices. So supporters of limited government have an excellent motive to support parking deregulation.

The quality-of-life implications of parking regulations are less obvious. However, minimum parking requirements actually make cities more car-dependent by:

- reducing the amount of housing that can be built on a given parcel of land, thus reducing the number of people who can walk to nearby destinations.
- encouraging landowners to place parking lots in front of buildings, thus creating a strip mall effect. To reach shops, offices, and apartments, pedestrians must walk past visually unappealing parking lots. When pedestrians are surrounded by a sea of parking, they may feel isolated and unsafe, making those shops, offices, and apartments unappealing as well.
- forcing landowners to create an artificial glut of parking, thus bringing the price of parking down to zero in many areas. Government-mandated free parking encourages people to drive, which increases the very traffic congestion that parking requirements were designed to prevent.

Street design regulations may seem non-controversial at first glance, but they reduce both walkability and property rights. Over the years, American cities have tended to require bigger and wider streets on longer blocks. Wider streets are unpleasant and perhaps even dangerous for pedestrians, because they increase the amount of time a pedestrian must spend walking through traffic. Moreover, every foot of land used for streets is a foot that cannot be used for housing or commerce. Thus, wide streets reduce density and walkability as well.

Property rights advocates have good reason to favor skinnier streets, because every foot a city takes to build a new street is a foot taken from property owners. Even if just compensation is paid, a property owner has still lost land to the government. How skinny can streets be? The
SmartCode (a walkability-oriented model zoning code drafted by a group of architects and urban planners and available at www.transect.org/codes.html) proposes streets with as few as 10 feet of pavement in residential areas and as few as 16 feet in mixed-use areas; in contrast, modern residential streets are often over 30 feet wide and arterial streets are sometimes over 70 feet wide.

Government spending on highways also causes problems for libertarians and smart growth advocates. Every year, federal, state, and local government agencies spend over $100 billion on highways. By facilitating development on the suburban fringe, highways shift development away from older, often more walkable, communities. Every dollar spent on new highways is a dollar taken from taxpayers, and every inch of right-of-way that Big Brother takes is an inch taken from landowners. So advocates of limited government have excellent reasons to favor limited highway spending.

In sum, there is good reason why property rights advocates should oppose the anti-pedestrian zoning, minimum parking requirements, and wider streets and highways that smart growth advocates already deplore. These rules both increase government regulation of land use and lead to less pedestrian-friendly community design. Admittedly, libertarians and sprawl critics may have to agree to disagree about whether government should do anything to restrict new development in outer suburbs and about the extent to which government should support public transit.

But the problem of anti-sprawl government regulation is a minor one, because anti-sprawl regulations (outside Portland and a few other very environmentally minded regions) are less frequent than the pro-sprawl regulations discussed above. A 2006 Urban Land Institute study revealed that 85.4% of developers agree that the supply of alternatives to conventional, low-density, automobile-oriented, suburban development was inadequate to meet market demand, and 78.2% of developers identified government regulation as a significant barrier to such development.¹ What do these statistics mean? That more often than not, the same land use policies that can increase Americans’ land use, housing, and transportation choices will also expand their property rights.

Of course, there are other areas where smart growth supporters and libertarians may have to agree to disagree. For example, libertarians will generally be less likely to support public subsidies for mass transit than smart growth advocates, and will also be more hostile toward anti-sprawl land use regulations such as urban growth boundaries. But these differences should not blind us to the many areas where these movements can find common ground.

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