

Florida's Growth Management Experiment: An Analysis

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EXECUTIVE SUMMARY

- The key element in Florida's growth management process is the local comprehensive plan, which is a blueprint for local development. These plans are built around a land use map that specifies what types of development are allowed in what areas. Plans must be approved by Florida's Department of Community Affairs and every local government is required to have one. The state can assess penalties on local governments whose plans do not meet the approval of the Department of Community Affairs.

- The Department of Community Affairs (DCA) has created specific guidelines to prevent local comprehensive plans from allowing urban sprawl. These guidelines have now been made a part of the Florida Administrative Code that governs the creation of local comprehensive plans. While the concept of preventing urban sprawl sounds desirable, the DCA guidelines will prevent efficient development patterns and, in general, will have a harmful effect on Floridians.

- Florida's growth management policies have the effect of making developed and developable land more expensive, thus raising the cost of housing. This is especially harmful to lower-income Floridians, who tend to be renters. It lowers the value of land and the property tax base, thus increasing tax burdens on those who rent or own developed property. While there will be some gainers and some losers in the process, accounting for all the changes in property values due to growth management illustrates an unambiguous net loss to Floridians.

- The effects of Florida's growth management policies will be slow to show up because the amount of land developed in any particular year will always be small compared to the amount of land previously developed. As of 1995 the effects have barely shown up, so it is too soon to judge the success or failure of growth management based on the evidence. The full effects will not be visible for a decade or more. The danger is that as harmful effects do begin to appear, people will not recognize them as the direct result of growth management policies and will demand that the government create new laws to mitigate the harm caused by the old laws. In states where this has already happened, the negative consequences of poorly designed land use restrictions are apparent.

FLORIDA'S GROWTH MANAGEMENT EXPERIMENT: AN ANALYSIS

INTRODUCTION

In 1985 Florida's Growth Management Act was passed, introducing a new era of statewide land use management planning in Florida. Florida's Growth Management Act requires all local governments to draw up local comprehensive land use plans, which must then be submitted to Florida's Department of Community Affairs. The Department checks to see that the plans are in compliance with the Act. If the Department of Community Affairs finds that a local comprehensive plan is in compliance with the law, it is then approved and used as a blueprint for local development. Otherwise, the local government must modify the plan to make it conform to the Department of Community Affairs' interpretation of Florida's Growth Management Act.¹ Two notable features of the land use planning process are that (1) the local comprehensive plans create a land use map to put all land into zones that allow varying degrees of development, and (2) that there is a requirement that infrastructure to serve new development be in place concurrent with the development. Following is a review of the history and implementation of Florida's Growth Management Act, and some analysis of the possible consequences of the Act's implementation.

The comprehensive planning process that has evolved from Florida's Growth Management Act is substantially different from the process foreseen by many at the time the Act was passed. One of the most prominent concerns to evolve after the Act was passed was the effect of the requirement that infrastructure be available concurrent with development. How would such infrastructure be financed?

As it turns out, the concurrency requirement is much less binding on the planning process than originally imagined, and other seemingly minor parts of the Act have taken on major significance. Although the original idea was to have local governments draw up their own local comprehensive plans, Florida's Department of Community Affairs has become much more heavily involved in dictating the contents of local comprehensive plans than was origi-

nally envisioned, leading some critics to refer to the growth management process as state-wide zoning. The Department's ideas regarding what makes a desirable local comprehensive plan have considerably restricted the amount of land available for development and the results are likely to have negative consequences for Florida.

If the growth management process continues as it is currently operating today, the price of developed and developable land in Florida will rise. This will create a disproportionate hardship on low income Floridians. Land that cannot be developed will fall in value, but changes in land prices will on net be harmful to Floridians. One would hope for offsetting benefits in exchange for these costs, but another side effect will be that land will be developed less efficiently than if the Growth Management Act were not in place. Florida's growth management policies undoubtedly are well intentioned but the actual effects on Florida will be uniformly negative. **Unfortunately, understanding the negative effects of the growth management process is not easy because the process will take decades for all of its effects to appear. There is the danger that, unless Floridians are alert to the likely negative consequences of Florida's Growth Management Act, these consequences will be attributed to other factors, and there will be public support for even more regulations to cope with the negative effect of the earlier regulations.**

Growth management is a critical issue for Florida but its impact unfolds too slowly to be newsworthy. Furthermore, the laws are difficult to understand and affect the typical Floridian only indirectly through their long-run impact. Thus, most Floridians will remain very uninformed about this issue that will have major implications for Florida's future. This study explains the background behind Florida's Growth Management Act, the way in which it has actually been implemented, and the likely results it will have on Florida's policies.²

BACKGROUND

Florida has grown rapidly for decades, and has suffered some growing pains in the process. Growth has been good to Florida in that Florida's

income has consistently increased relative to the national average. In 1960 Florida's per capita income ranked 31st among the states, and steadily gained relative to the national average so that by 1992 Florida ranked 20th. Along with income growth came population growth and, during the same 1960-92 period, Florida's population more than doubled, from 5 million to 13.7 million. During this same period, the percentage of Florida's income devoted to highway construction dropped from more than two percent to eight-tenths of one percent.³ When Florida's Growth Management Act was passed in 1985, Florida was spending only three-quarters of a percent of its income on highways. Population growth, coupled with a declining share of income going toward the construction of roads, meant that Florida was becoming increasingly crowded. Traffic congestion was a factor in the push for growth management, as was the desire to protect the environment, and to preserve the way of life that Floridians have come to enjoy.

Florida's Growth Management Act was passed as an attempt to deal with the problems of growth. The key to the growth management process is the local comprehensive plan that must be submitted by all local governments to, and approved by, the Department of Community Affairs. Development is allowed only if it does not violate the approved local plan. Once drawn up, a plan can be modified up to twice a year, providing some flexibility in the planning process. Just as with an original plan, any modifications must be in accordance with Florida's Growth Management Act and must be approved by the Department of Community Affairs.

Although Florida's Growth Management Act was passed in 1985, local governments had approximately five years to draw up their plans and submit them to the DCA for approval. The due dates of the plans were staggered so that all local governments would not be submitting their plans at the same time. This also allowed those governments submitting plans later in the process to learn from the experience of governments who had submitted their plans earlier.

Before any of the plans had been submitted, many observers viewed the concurrency requirement as the major roadblock to development under Florida's Growth Management Act. The concurrency requirement mandates that the infra-

structure to support development be made available concurrent with the development. While a number of different infrastructure areas are included in the concurrency requirement, in practice the most binding constraint is on roads.

The local comprehensive plans must specify level-of-service standards for all roads within the local government's jurisdiction. There are legal definitions both for levels of service and for the levels of service that will be acceptable in the local comprehensive plans. If existing levels of service are unacceptable, then the Department of Community Affairs will not approve a comprehensive plan that allows additional development that will add traffic to an unacceptably congested road. In order to be approved, a comprehensive plan must provide a way to raise current levels of service to acceptable levels.⁴

The concurrency requirement was viewed as the key to growth management by both supporters of the Act and by those who questioned it.⁵ Florida's roads were already congested and it appeared that unless additional funds could be made available for road construction, development in Florida would be severely curtailed by concurrency. In practice, concurrency has, for several reasons, turned out to be less important than many anticipated it would be. First, much property was vested for development, so it could be developed regardless of infrastructure availability. Second, because the problem was anticipated, local comprehensive plans were developed with concurrency in mind. Third, when development is prevented in more congested areas, it tends to push development into areas that are not congested, which is away from the urban core and into more rural areas. Fourth, amendments to Florida's Growth Management Act during the 1993 legislative session lessened the constraining impact of concurrency at a time that it might otherwise have been more binding.

This side effect of concurrency--pushing development toward rural areas--has been viewed as undesirable by the Department of Community Affairs. Perhaps for this reason, and undoubtedly for more general reasons as well, the Department of Community Affairs has aggressively pursued a policy of battling urban sprawl. The DCA's policy on urban sprawl has been much more limiting than origi-

nally anticipated when Florida's Growth Management Act was passed.

LIMITING URBAN SPRAWL

Florida's Growth Management Act sets forth a number of goals that it hopes to accomplish. Two that have become especially significant are (1) limiting the proliferation of urban sprawl and (2) protecting the environment. Rule 9J-5, which defines the requirements for local comprehensive plans, lists among the goals of each comprehensive plan that it should "discourage the proliferation of urban sprawl." While this sounds like a worthy goal, the original law did not define what is meant by urban sprawl, leaving the matter up to interpretation. Urban sprawl sounds bad—the words conjure up a negative image—but without a clear definition, it was unclear exactly what policies are implied by this vague goal. One way to view it in the context of Florida's Growth Management Act is that comprehensive plans are supposed to be drawn up locally and, because every locality will face different circumstances, it is up to each locality to decide how it wants to address the goal of preventing the proliferation of urban sprawl. This interpretation would be within the spirit of the creation of local plans, which is what seems to be implied in the original law.

In practice, just the opposite has happened. Faced with a vague goal of preventing the proliferation of urban sprawl, the Department of Community Affairs drew up specific guidelines to address the issue. Some of those guidelines were put in writing by the Department, while others remained unwritten but generally known.⁶ These guidelines were not a part of the original law, but nevertheless became a major factor in the DCA's policies regarding the approval of local comprehensive plans. Critics of the Department of Community Affairs raised legitimate questions as to whether that department should have the legal authority to create Florida's growth management policies without legislative oversight. The perception is that the Department has taken the authority to write the law from the legislature and implemented its own policies rather than use those given to it by the legislature.

Many local governments gave in to the

Department's urban sprawl policies rather than face costly challenges by the state, but many others challenged the DCA on its urban sprawl policies. When challenged, the Department often backed down because its policies on urban sprawl did not have the force of law, and it did not want to lose a challenge. However, that changed in 1993 when the Department of Community Affairs was able to embody its urban sprawl policies in the Florida Administrative Code, Rule 9J-5, which dictates the requirements for local comprehensive plans. Originally, the rule simply stated that local comprehensive plans were supposed to "prevent the proliferation of urban sprawl," without defining urban sprawl or giving any explanation of how it was supposed to be prevented. Those few words have now been turned into a major part of the local comprehensive planning process.

As defined by the Florida Administrative Code, Rule 0J-5.003 (140), urban sprawl is "urban development or uses which are located in predominantly rural areas, or rural areas interspersed with generally low-intensity or low density urban uses, and which are characterized by one or more of the following conditions: (a) The premature or poorly planned conversion of rural land to other uses; (b) the creation of areas of urban development or uses which are not functionally related to the land uses which predominate the adjacent area; or (c) the creation of areas of urban development or uses which fail to maximize the use of existing facilities or the use of areas within which public services are currently provided. Urban sprawl is typically manifested in one or more of the following land use patterns: leapfrog or scattered development; ribbon or strip commercial or other development; or large expanses of predominantly low-intensity, low density, or single-use development."

In addition to this definition, Rule 9J-5.006 offers several additional pages of discussion of urban sprawl, including a list of 13 primary indicators. Included in the indicators are low intensity development, leapfrog development, and strip or ribbon development, which are part of the definition. Another indicator is development which "fails to encourage an attractive and functional mix of uses." Essentially, with the changes that the Department of Community Affairs was able to insert into the law in 1993,

a local comprehensive plan can be rejected any time the Department does not like it. The definition in Rule 9J-5 says that urban sprawl can be caused by “the premature or poorly planned conversion of rural land to other uses,” and one indicator of urban sprawl is a plan that fails to encourage an attractive and functional mix of uses. In other words, if the Department of Community Affairs does not like your plan, they can reject it.

These criteria are so subjective that the Department of Community Affairs can reject any local comprehensive plan, because by law all they have to argue is that the plan allows “poorly planned conversion of rural land,” or that it does not “encourage an attractive and functional mix of uses.” Florida’s urban sprawl policy is essentially that any plan can be rejected for not preventing the proliferation of urban sprawl. In effect, the planning process has changed from a focus on local comprehensive plans to statewide planning criteria based on the whim of the reviewers at the Department of Community Affairs.

Despite the subjective nature of Florida’s urban sprawl policy, the definition of urban sprawl in Rule 9J-5 does list three main indicators that help to illustrate the type of development that the Department of Community Affairs is trying to prevent: leapfrog development, strip or ribbon development, and low-density single dimensional development. Each of these indicators of urban sprawl can be examined to see what the effects on development will be if they are prohibited.

LEAPFROG DEVELOPMENT

Leapfrogging occurs when new development by-passes undeveloped land near an urban area to locate beyond that undeveloped land. By leapfrogging, those who live in the new development must travel farther to get the urban area, creating greater dependence on automobile transportation. This causes infrastructure costs to be higher because roads, sewers, and so forth must be extended beyond undeveloped land to reach the leapfrog area. The Department of Community Affairs sees leapfrog development as undesirable and seeks to prevent it.⁷

Leapfrog development has much to recommend it, however. Typically, the motivation for leapfrog development is to allow development in an area where land prices are lower, creating more affordable housing and thus allowing Florida’s residents to enjoy better housing for a given amount of money. For this to be beneficial, the new development must be responsible for its infrastructure costs, but if it does pay its infrastructure costs, it would seem reasonable to allow Florida’s residents the option of living further away from the urban core of a city in exchange for better and more affordable housing.

There is another advantage of leapfrog development which is especially compelling in a growing area. Prime development areas for business and commercial use are centrally located, not located on the periphery of an urban area. If leapfrog development is prevented, this means that new development will always be at the edge of the currently developed area, which is not desirable for commercial development. If leapfrog development is allowed, this creates a prime area for business and commercial development between the urban core and the leapfrog development. Such a prime commercial location is likely to be developed more densely because of its more central location, leading to more compact development over the long run, and reducing the amount of single-dimensioned development. This creation of pockets of commercial development lessens the distance needed to travel for shopping, reducing overall traffic congestion. Leapfrogging is actually a desirable stage in growth, because it creates more valuable business property with a central location.

This is not to say that leapfrog development is always desirable, but rather that it can be desirable, especially when developers are required to pay their way with regard to infrastructure costs. Leapfrog development is often efficient and can create better development patterns over the long run than if it is arbitrarily prevented. The Department of Community Affairs’ viewpoint on leapfrog development would be more appropriate if cities consisted of a central core where everyone works, and suburbs surrounding the city where everyone commuted from in the morning, and back home to at night. In this case, more compact development would be desirable. But in reality, most jobs are in the suburbs, and

people commute relatively short distances to and from activity centers. Leapfrog development encourages this growth in activity centers that shorten commutes and lessen single-dimensioned development. Often such development should be encouraged, not prevented.

Two excellent examples of leapfrog development created by state government itself are the University of South Florida in Tampa and the University of Central Florida in Orlando. When those universities were built, they were leapfrogged well beyond the existing urban core, creating the long commutes and infrastructure costs that the Department of Community Affairs finds objectionable. However, after several decades, university communities have developed in both locations, and Tampa and Orlando are much better off with these university areas removed from their downtown urban centers. This can be contrasted with Florida State University, located in downtown Tallahassee. It creates additional traffic congestion and land use conflicts as the university community commutes with other downtown travelers and as it competes with other potential users of downtown land. These concrete examples give Florida-specific cases that can be used to evaluate the Department of Community Affairs' urban sprawl policy.

STRIP OR RIBBON DEVELOPMENT

Strip or ribbon development occurs when business and commercial areas develop along heavily traveled roads, leaving relatively undeveloped areas between major thoroughfares. The DCA does not like this type of development because it creates traffic congestion and because it tends to be unsightly. However, like leapfrog development, there is a compelling logic to strip or ribbon development which actually is an efficient development pattern.

Business and commercial users of land prefer locations that are accessible to their customers and clients. This means locating on well-traveled roads near major intersections, and in relatively central and convenient locations. Thus, it makes sense for businesses to locate on major thoroughfares, which leads to strip or ribbon development. Meanwhile, people like to have their homes in relatively

quiet, less traveled areas, away from busy streets, yet conveniently located to shopping and work. Therefore, the land between the ribbons of development that occur on major thoroughfares is ideal for residential location. Again, strip or ribbon development is a characteristic of efficient development.⁸

If strip or ribbon development is allowed, it ultimately produces more compact and more efficient development patterns because the strips of commercial development create readily accessible commercial establishments, lessening the need to commute long distances. It also creates desirable residential locations which are near to shopping and business. Strip or ribbon development helps prevent the single-dimensioned development that the Department of Community Affairs also objects to.

Strip or ribbon development can create traffic congestion if major thoroughfares are too narrow and if too many curb cuts are allowed. These are not problems of strip development per se, but rather of ineffective management of public right-of-way. One of the main government roles in planning for growth should be to obtain sufficient right-of-way ahead of development, and to limit access to major roads through the use of access roads and other design measures. In many ways, public roads can be viewed as similar to public waterways where the government regulates and limits discharges into the waterway and use of the waterway. The government also has a role in responsibly managing public roadways to limit congestion. Growth management would work better if planners were more concerned with effectively managing public facilities rather than regulating private land use.

Strip or ribbon development can also be unsightly but this is not a necessary feature of that type of development, and unsightliness can be managed without dictating what can be located on particular parcels of land. Visual buffers can be created and, in combination with access roads, can lead to effective traffic management and the furtherance of aesthetic goals. A good example with which many legislators will be familiar is Governor's Square Mall in Tallahassee. Located on a major thoroughfare, the mall is surrounded by trees and is barely visible from the street. It also has access roads that limit the number of curb cuts and the attendant traffic congestion.

This is not to say that strip or ribbon devel-

opment is always desirable, but often it can be. In a growing area, especially, it provides accessible business and commercial areas while also providing good locations for residences between the ribbons of development. This enables people to live on quiet, little-traveled streets that are still nearby business and commercial locations. On net, this type of development is often desirable, and certainly should not be prohibited as a matter of policy.

LOW-DENSITY DEVELOPMENT

Low-density, single-dimensional development typically occurs when large subdivisions of single-family detached homes are created with no nearby business or commercial property. Infrastructure costs are raised by this type of development because residences are further away from each other. More land is used to accommodate low population densities, creating possible environmental problems, and, because of the single-dimensional nature of the development, there is more reliance on automobile travel than if business and commercial areas are nearby.

There are two conceptually distinct issues to consider with regard to low-density, single-dimensional development. The first is the single-dimensional nature of this development. Often, it is the result of government policies rather than the land use decisions of private land owners. Zoning laws prevent the mixing of different types of land uses, for example, and, as noted above, single-dimensional development can be discouraged through the use of leapfrog development and strip or ribbon development. The Department of Community Affairs' policies on these issues are not consistent.

The second issue is low-density development. Typically, being able to live in a bigger home and on a larger lot indicates a higher standard of living. Those Floridians who are better off typically already live in a single family home in a low-density area and will continue to do so regardless of the Department of Community Affairs' policies. The people who will be most affected are those who currently live in apartments but would like to move to single-family homes. As a matter of policy, it would seem more desirable to allow more middle and lower income Floridians

to attain the same standard of living as higher income Floridians, rather than trying to promote high-density policies which is an indicator of a lower standard of living.

In early 1993, when the Department of Community Affairs was trying to incorporate its urban sprawl policy into Rule 9J-5, it had an economist draw up an economic impact statement for those policies.⁹ That impact statement discusses the advantages of more compact development in terms of lower energy and travel costs, reduced infrastructure costs, and greater accessibility throughout an area. The economist who wrote this impact statement is a friend of mine and lives in a beautiful house on a large lot adjoining a lake. There is enough room between his house and the lake that another house could easily be built there, although I am confident that his desire for higher-density development would not extend to building more houses in the immediate vicinity of his own. His case undoubtedly is typical of the policymakers who work for the Department of Community Affairs. They all have good jobs and already live in nice houses, yet they are intent on pursuing policies that would deny many Floridians the chance to enjoy the standards of living that they now have.

Many people, when given the choice, would gladly bear the additional infrastructure costs in exchange for living in a single-family detached home. Although there is some concern about the environmental impact of this type of living, it is likely to be minimal and perhaps even beneficial when compared to the alternative. One of Florida's most significant environmental problems is stormwater run-off. Large lots absorb stormwater whereas apartments and other higher density living accommodations do not have the green space necessary to absorb stormwater, thus creating an environmental problem. High-density development often means wholesale elimination of the natural environment, whereas low-density development can be accomplished by placing a home within a largely natural setting.

Low-density development does not have to mean long drives to commercial and business areas if residential and commercial areas are interspersed. This would require the DCA to rethink its blanket condemnation of leapfrog and ribbon development which, as previously noted, can aid in creating more

multidimensional development patterns. With regard to the desirability of high-density development, readers should consider how this policy is intended to apply to them, not just to other Floridians. Would you prefer to live in a smaller home on a smaller lot? Would you prefer to move from your detached home into an apartment, or from your existing apartment into a smaller one? This is what the goal of higher density development asks of every Floridian. If such a policy sounds unappealing to readers of this study, who are likely to be relatively well-off Floridians, it is even worse for low-income Floridians who aspire to increase their standards of living.

THE 120 PERCENT RULE

The Department of Community Affairs has used population projections to help determine whether local comprehensive plans allow too much land to be developed. The rule of thumb has been that land allowable for development should not exceed the amount needed to accommodate 120 percent of the area's projected population. If a local comprehensive plan is submitted to the Department with a land use map that allows for more than that amount of land for development, the Department has typically found such a plan to be not in compliance with the law, and has asked the local government to reduce the area allowed for development.

This 120 percent rule is intended to target development toward particular areas and creates much more government control of development than would otherwise be the case. The 120 percent rule has the effect of creating a windfall gain for those individuals who own property deemed developable in a given local comprehensive plan. At the same time, it harms those who might have similarly situated property but which cannot be developed according to the plan's land use map. In addition to creating winners and losers, the 120 percent rule makes land more expensive to develop than if the rule were not used, thus raising the cost of housing, business, and commercial development.

Competition helps to hold down prices of anything, including real estate. If, in a particular location, individuals wanting housing, commercial, or business sites have many choices, the owners of those

sites would be in competition with each other and would have to offer better terms to buyers than if location opportunities were more limited. What the 120 percent rule does is limit buyer options, giving some degree of monopoly power to those whose property can be developed under the local comprehensive plan. Even if development proceeds at a steady pace, land prices will be higher when land is made available sequentially than when all locations must compete simultaneously against each other.

Consider a hypothetical situation where land is available for development in two different locations, and there is enough land to accommodate more than 120 percent of projected population growth. Without the 120 percent rule, the two locations must compete with each other, resulting in lower land prices to buyers. If the government, through its local comprehensive plan, chooses which site will be developed first, the owner of that site will enjoy reduced competition and will be able to charge more for the land. Housing prices will rise, impeding the goal of affordable housing and making housing occupants worse off at the expense of land owners in developable areas. As areas get built out and the comprehensive plan makes more areas available for development, ultimate development patterns might be unaffected by the 120 percent rule (as long as the comprehensive plan picks the same areas for development as the market would have), but the unit cost of development increases, hurting many Floridians in the process.

Another negative effect of the 120 percent rule is that land excluded for development has less value than if it were eligible for development. This hurts the owner of the undevelopable land, of course, but also lowers the land's value for tax purposes. Already in Florida, the assessed value of some property has been lowered due to the fact that it has lost its development potential under a given local comprehensive plan. As a result, if given local governments want to maintain their flow of revenues they must raise the taxes of individuals who are in developed areas. Florida's homeowners and businesses must pay higher taxes because local comprehensive plans have lowered the value of much property by reducing its development potential. Everybody loses in the process.

ARE FLORIDA'S URBAN SPRAWL POLICIES GOOD FOR FLORIDA?

Having discussed the urban sprawl policies that are a key element of the Department of Community Affairs' evaluation process, it is reasonable to consider whether these policies are good for the state. The process has developed in a manner different from that envisioned by at least some who supported Florida's Growth Management Act in 1985. Comprehensive plans were supposed to be locally created. However, the DCA has exercised such a heavy hand in approving the plans that local governments have very little latitude to manage their own growth as they see fit.

Florida is a very diverse state, ranging from the heavily urbanized Miami-Fort Lauderdale area to the major tourist attractions in central Florida to the largely rural nature of the north. Yet the Department of Community Affairs essentially mandates the same urban sprawl guidelines throughout the state. Policy makers at the DCA have a fixed vision of what a "good" Florida would look like, and they are working to impose that vision on all Floridians. One of the reasons Florida is a diverse state is that not all Floridians share the same ideas of what an ideal community is like. Florida would be better off if the Department of Community Affairs allowed local governments more autonomy in drawing up their local comprehensive plans.

The Department's urban sprawl policy, which now is a part of Rule 9J-5, is a prime example. Not only does it attempt to enforce homogeneity on the state, its basic tenets stifle efficient and economical development. Its policy regarding leapfrog development prevents prime commercial property from being created as communities grow, as does its policy on strip development. Both of these policies undermine the Department's own goal of reducing single-dimensioned development. This is not to say that leapfrogging is desirable in every case, but rather that it often has beneficial consequences and should not be discouraged as a matter of policy. The Department's rule of thumb of restricting developable area to 120 percent of projected population growth increases the cost of development, puts a burden on new homeowners through higher real estate costs, and raises tax costs on owners of already-

developed properties.

Essentially, the Department of Community Affairs has become a centralized land use bureaucracy, very much in the image of the way central planning was carried out in the former Soviet Union. In the former Soviet Union, central planners drew up overall plans for the Soviet economy and then gave factory managers orders to match production to the plans. Here, the DCA draws up its plans and orders local governments to design their comprehensive plans to fit the mandates of the Department. The DCA has gone well beyond the legislation in Florida's Growth Management Act to specify its own guidelines for compliance and, in some cases, has even gotten its guidelines incorporated into the law, as with its urban sprawl policy.

Since the local comprehensive plans are supposed to be created locally, should it not be up to the localities themselves to interpret the law as it applies to them? In reality, the Department of Community Affairs has taken it upon itself to impose its interpretation of the law on localities, essentially writing the law without any legislative oversight or approval.

As suggested in the preceding sections, the DCA's policy is not, in general, desirable policy, although it might be appropriate in certain specific cases. If it is, it should be up to the local governments themselves to decide when to apply it, not the Department of Community Affairs. The plans were originally conceived as local plans, not state plans drawn up at local government expense.

HOW DOES GROWTH MANAGEMENT REALLY WORK?

Growth management involves local comprehensive plans, concurrency, leapfrog development, and many other abstract concepts. However, these details serve to obscure the actual mechanism by which growth management works. Fundamentally, growth management works by preventing owners of property from developing their property in ways they might have had the law not been in effect. It does not enable anybody to do anything they could not have done before—it only prevents people from undertaking development. Ultimately, the broadest and longest-range consequences of Florida's Growth

Management Act will result from the restrictions in development activities that it causes.

The first step in evaluating the consequences of Florida's Growth Management Act is to look at who are the winners and losers. The key to the process is the land use map which allows certain types of development in certain areas and prevents it in others. Because developable property becomes ever more scarce, its price rises, while property that is no longer available to be developed will fall in value. Property values change only slowly, because in any given year total new development will be relatively small when compared to the amount of property that is already developed. After a number of years, however, increased scarcity starts to be felt, and the changes in real estate prices can be substantial. Real estate prices in California, now known as among the highest in the nation, were about at the national average in the 1950s. The rapid escalation in California real estate prices has partly been the result of natural restrictions in the amount of available land—San Francisco is surrounded on three sides by water, for example—but it has largely been because of the restrictive regulations on new development in California.¹⁰

In some places in Florida, such as the Miami area, a combination of natural barriers plus an already high population density has made land more scarce than in other Florida areas, and higher land prices reflect that. By creating a land use map and preventing development in all except a few areas, and by allowing just enough land for development and thereby restricting competition, an artificial scarcity is created that pushes up the price of developable land. Land prices in Ocala are not as high as in San Francisco, for example, because Ocala is not surrounded by water, leaving room for expansion. However, if a local comprehensive plan rings Ocala with undevelopable land, the effect will be the same as if the city were naturally constrained in its ability to grow. Growth management, by restricting the amount of land available for development, pushes up the price of developed and developable land.

Conversely, land that cannot be developed falls in value for the obvious reason that its development potential is curtailed. This harms the landowner even if the landowner has no intention of developing the land. Not only is the property worth less if the

owner wants to sell it, the owner's general borrowing ability is curtailed. This is especially significant to farmers who routinely take out loans during the growing season which are repaid after their crops are sold. If a farmer's land is reduced in value, he has less to offer as collateral, increasing the harm that results from that decline in value.

A decline in value creates an obvious harm, but not so obvious is the fact that growth management-caused increased prices on select properties produces no net gain. Property that can be developed, or is already developed, will be priced higher as a result of the restrictions on growth, but this offers no net economic gain. Property owners who want to rent or sell their property can charge more for it, which is a gain to them, but the people they rent or sell to will have to pay more, exactly offsetting the gains to the property owners. The land that has risen in price is not more valuable because it is better with growth management than without, but only because of the artificial scarcity created by restricting the amount of developable land.

This is a key point in understanding the overall economic effects of changes in property values that result from growth management. The price of some property will rise, reflecting increased scarcity, but the higher price owners receive is exactly offset by the higher price buyers and renters have to pay, creating no net gain as a result of the price increase. The decrease in price of property that is excluded from development represents a net loss, however, because the lower price reflects the decline in value due to growth management. Therefore, the net effects of growth management due to changes in property values must be negative, because lower prices reflect true economic harm, but higher prices to some people are exactly offset by higher costs to others.

Those who gain from changes in property values tend to be upper-income Floridians who own their own homes and own already-developed commercial and business property. The losers will tend to be those who own property that is restricted from development, people who will be moving into the state, younger people who will aspire to own their own homes someday, and poor people who are more likely to be renters. On net, growth management will be harmful to Floridians, although some will gain in the process. The gainers will tend to be rela-

tively well-off, while the losers are more likely to be poor.¹¹

Florida's growth management process has created many new terms such as like "local comprehensive plans," "levels of service," and "concurrency" but, stripped of all the jargon, the way growth management works is simple. It prevents some property owners from using their land in ways they prefer. It does not enable anyone to do anything that could not be done before; it only prevents some people from doing what they previously could have done. Growth management works by restricting development, which causes the price of developed property to rise. If there were offsetting benefits to compensate for imposing a higher cost of living on Floridians, then one might be inclined to accept those costs. However, the process imposed by Tallahassee on the rest of the state tends to result in less efficient development, and removes considerable local autonomy from Florida's communities and replaces it with central planning from the state capital.

HAS GROWTH MANAGEMENT BEEN SUCCESSFUL?

Florida's Growth Management Act is now 10 years old so there is the temptation, especially in light of the critical review given above, to ask how the process has worked and to assess its overall success. One must be careful in doing so, however, because growth is inherently a slow process and few of the long-term consequences of the Act have yet been felt. For half of the 10 years that the Act has been in existence, no comprehensive plans were created. Thus, we have some experience with the planning process, but almost no experience with the effects of those plans that were created by the process.

Most of the experience with growth management has been with the process of developing local comprehensive plans and the process of getting them approved by the Department of Community Affairs. The process has been costly, both to local governments and to the state, but localities now understand how it works and are able to deal with it, (although not all are happy with it). The procedural aspects of growth management have been worked out.

As of 1995, land use in Florida has been affected very little due to growth management, for several reasons. First, development is a slow process and the development that has occurred since the first local plans were actually approved is dwarfed by comparison with previous development. Only after a longer period of time can the effects of growth management be felt. Second, property that was permitted for development before local comprehensive plans were created has been vested, which will help to overcome the restrictive nature of growth management--until that property is all developed. Third, development accelerated in the late 1980s to beat the anticipated growth management regulations. Over time, these mitigating factors will disappear, and the true effects of growth management will be felt more acutely.

In short, it is too early to assess the impact of growth management based on its actual effects because those effects will not be fully felt for a decade or more. That is why careful analysis about the likely effects is so important.

FUTURE CONSEQUENCES

What are the likely future consequences of Florida's Growth Management Act? If present growth management policies do not undergo significant change, Florida will see substantial long-term harm from the enforcement of its Growth Management Act. As noted above, present growth management works by restricting development possibilities, which increases the cost of developed property. The Department's urban sprawl policy is likely to result in inefficient development patterns, despite its intent. It will reinforce central city commuting from the suburbs and discourage the creation of new commercial and business activity centers, making traffic congestion in Florida worse than it already is.

Higher housing costs caused by growth management place a disproportionate burden on low-income individuals. Upper income individuals are more likely to own their own homes, so increases in property values can actually provide then a benefit if the property is sold. For renters, however, higher property prices mean higher rents. This will reduce the real income available for renters, and both the higher

rent and higher costs of purchasing housing will make it more difficult for renters to eventually buy their own homes. On net, the rich will gain at the expense of the poor, at least initially. In the long run everyone will be worse off because of the costs imposed by the growth management process.

In other parts of the country, such as California, New York City, and Washington D.C., rising rents have created political pressure to hold rents down, and have resulted in rent controls. If growth management restricts development opportunities and raises rents in Florida, we should expect the same thing. Rent control ordinances are local laws, and if growth management policies are not changed, one can anticipate rent controls in many Florida localities within a decade or two. Rent control ordinances have a devastating effect on rental property, not right away, but over a period of time. When rents are artificially depressed by government rules, two things happen: (1) fewer rental units are built while (2) demand for rental housing increases. The result is a shortage of rental housing which leads, in turn, to increases in homelessness and other social problems.¹²

Could this scenario unfold in Florida? It has in California and, through our growth management policies, we are setting the stage for similar problems here. The major consequences of growth management tend to be long-term and are not easy to associate directly with growth management policies. In the decades ahead, when these types of problems start to show up, few Floridians will be able to trace their origins to a law passed in 1985. The danger is that, by not recognizing how these problems were caused, there will be a call for additional government regulation to fix the problem caused by the initial laws. **The true solution is less regulation, not more.**

Despite this pessimistic assessment there is some reason for optimism. It may be that political pressure will bring with it a weakening of Florida's Growth Management Act. In the 1993 legislative session the Act was amended to create increased flexibility in the concurrency requirement. Localities can choose to tolerate lower levels of service on certain roads. Also, concurrency management areas can be established that allow developers to finance improvement in a given area even if roads directly adjacent

to the potential development do not meet level of service requirements. This flexibility is noteworthy because local comprehensive plans have only been in effect for a few years and already the regulations governing them have been modified in response to political pressure. Perhaps, as other aspects of the law become more binding, additional flexibility will be added there too.

While this might be a sign of some progress, the 1993 amendments to Florida's Growth Management Act also signal some problems. The amendments total 178 pages and are not easy to understand. This undoubtedly means more employment for attorneys and bureaucrats to deal with the complications. The law in this area is very complicated and filled with jargon that the general public doesn't understand. And, because the general public is affected only indirectly and through the long-term consequences of growth management, most Floridians will remain uninformed about the law. That spells trouble for the democratic process. In future battles over growth management, one special interest will be sparring with another with most Floridians having little chance of becoming involved, or even understanding the issues in a matter so vital to Florida's future. Accountability in the growth management arena will become even more diffused as the bureaucracy in the Department of Community Affairs usurps ever more control over the process from the legislature. The law needs to be simplified, not made more complicated.

NOTES

¹There is an appeals process that can be used if a local government disagrees with the Department of Community Affairs. Typically, local governments work out their differences with the Department. If a local government's plan does not comply with the law, it can suffer financial penalties in the form of lost state funds. Of course this gives local governments a substantial incentive to reach an agreement with the Department.

²For additional background and analysis, see the James Madison Institute's earlier study on the subject, John W. Cooper, ed., *Private Property Rights, Land Use Policy, and Growth Management* (Tallahassee: Montpelier Books, 1990).

³In 1960 Florida's state government spent over 28 percent of its budget on highways, contrasted with less than 8 percent in 1990. However it is analyzed, Florida's government has cut back drastically on highway expenditures.

⁴There are exceptions to this strict concurrency rule that were created in amendments passed during the 1993 legislative session. Even before the amendments, strict adherence to concurrency was not always required by the Department of Community Affairs. While Florida's Growth Management Act reads that way, in reality certain plans have won approval despite unacceptable levels of service on roads. For example, Dade County's plan was approved despite unacceptable levels of service on roads under the justification that congested roads would help the county achieve the goal of using more mass transit. This example also is evidence of the discretion that the Department of Community Affairs uses in determining whether a local comprehensive plan complies with the law.

⁵See, for example, 1000 Friends of Florida, "Concurrency Key to Growth Management," *Foresight* 1 (December 1988), p. 1, Theodore C. Taub, "Florida's Growth Management Concurrency Doctrine—Moratorium or Impetus to Fund Needed Infrastructure," *Environmental and Urban Issues* (Fall 1988), pp. 5-12, and Randall G. Holcombe, "Distributional Aspects of Florida's Concurrency Requirement," *Florida Policy Review* 5, No. 2 (Winter 1990), pp. 8-14.

⁶Some guidelines appear in the Department of Community Affairs *Technical Memo*, Volume 4, No. 4, which was released in 1989.

⁷These guidelines were originally set out in the Department of Community Affairs *Technical Memo* Volume 4, Number 4 in 1989, and are an established part of the Department's policy, even though they were not introduced into law until 1993. A reading of that memo can help illuminate the Department's position on urban sprawl.

⁸This is explained in more detail by Bernard H. Siegan, *Land Use Without Zoning* (Lexington, Mass: D.C. Heath & Co., 1972), and in his earlier article, "Non-Zoning in Houston," *Journal of Law & Economics* 13, No. 1 (April 1970), pp. 71-147. Siegan explains how efficient land use patterns develop without government planning, along the lines discussed here.

⁹As noted above, the Department of Community Affairs was attempting to amend Rule 9J-5 to include their sprawl policy. This process required that an economic impact statement be drawn up to evaluate the economic impacts of the proposed rule change.

¹⁰See William Tucker, *The Excluded Americans: Homelessness and Housing Policies* (Washington, D.C.: Regnery Gateway, 1990), for a discussion of restrictions on development and their negative consequences.

¹¹I have discussed the distributional impacts of growth management in more detail in “Distributional Aspects of Florida’s Concurrency Requirement,” *Florida Policy Review* 5, No. 2 (Winter 1990), pp. 8-14.

¹²Homelessness is a great problem in more wealthy areas. We hear much about homelessness in New York, San Francisco, Washington, D.C., and other relatively affluent areas (many of which impose rent controls), but hear little about homelessness in poorer states like Arkansas and Mississippi. Although the quality of housing available to the poor in these poorer areas is often deplorable, at least housing is available.