

What's the Matter with Zoning? The Unintended Consequences of Planning's Favorite Tool

Testimony before the House Committee on Land and Resource Management

by The Honorable Jess Fields, Senior Policy Analyst

Chairman Deshotel and Members of the Committee,

My name is Jess Fields and I am the Senior Policy Analyst at the Center for Local Governance at the Texas Public Policy Foundation here in Austin. We study local issues and appreciate that you have invited us to testify on such an important issue that receives far too little attention.

I'd like to discuss with you a few of the unintended consequences of zoning as it is practiced in Texas, particularly within our big cities. Every government policy has consequences, and zoning is no exception.

Strict zoning keeps some property values artificially low, while others are artificially inflated. This can create situations where development is either too expensive or prevented entirely, creating the stagnation in values that leads to blight.

- When zoning is strict in an area of high property values, it might have the effect of inflating values well beyond the market level and also shifting uses throughout the rest of a municipality. For example, if tall office buildings are only allowed in downtown, the restriction on the supply of land available for such buildings could lead to an artificial increase in the price of that land. A resultant change in behavior occurs whereby prospective developers create alternatives to tall office buildings, such as low-rise office buildings and corporate campuses, in other areas where zoning allows such alternatives. Again, this could artificially increase land prices in and around the zone where the alternatives are allowed, which in turn could also affect residential properties.

Zoning often has the effect of discriminating against the least-fortunate.

- Zoning, and the accompanying regulations and plans, is often enacted in an attempt to ensure high-quality development. As a result, the poor are usually left out of the equation. Trailer parks, multifamily complexes, and other market-driven development products seen as less desirable by planners will be pushed as far away as possible from the planned "higher-value" development, if they are allowed at all. This has three consequences that are evident in Texas today:
- Low-value residential development was once pushed to the extreme fringes of cities. It was fairly traditional planning practice to concentrate high-value zoning closer to downtown. The accelerated growth of many Texas cities, however, means that most now plan for growth well outside of current city limits, with annexation and comprehensive plans stretching far into the future. Low value growth may not be allowed at all within municipal limits, such as when residential zones bar the subdivision of land into smaller parcels, and require a minimum lot coverage which requires larger homes than can be affordable to the lowest income households. As a result of this, **low-value residential development is often pushed out into the unincorporated counties**, where services are less available, policing is usually less frequent, and even basic regulations are far lower or nonexistent. This results in rampant crime in some low-value areas, if they grow large enough. It also means that some of these areas are blighted and trash-ridden. Ultimately, the development of micro-cities in unincorporated areas outside of growing cities that reject low-value residential development pushes the lowest-income residents to the fringes of society, literally and figuratively.
- Due to the lack of low-value residential development in some cities who zone it virtually out of existence, but not a lack of demand by lower-income residents, **cities are pressured by market conditions to meet the need by building subsidized**

continued

housing. With good intentions, cities seek to spend funds on public housing or otherwise subsidize low-income residents to have housing via federal HOME grants, and some measure of their own tax dollars, such as issuing bonds with the property taxes to repay them falling on all property owners. These policies create their own unintended consequences, which there is not enough time in this hearing to discuss. Needless to say, subsidized housing leads to a chain of unintended consequences that result in property devaluation and numerous externalities for other residents of these cities.

- Where low-value development does exist, either for historical reasons or because the city has zoned for it in some measure, it will often serve to artificially depress values in large areas around it, the distance and breadth of the area depending upon prevailing market conditions. However, by not allowing for redevelopment, cities may “contain” low-value development as islands of low values on the zoning map. Around it, they may put other zoned uses that would not be allowed near higher-end development—for example, industrial and high-traffic commercial. The end result is that a deep discriminatory effect within zoning bears itself out as segregated areas within cities, with residents grouped by income and treated better by the zoning map according to the value of their income.

What does all of this mean for the committee and its consideration of present zoning laws and practice?

- Expanding zoning authority to counties or extraterritorial jurisdictions (ETJs) may serve to exacerbate some of the unintended consequences caused by zoning policies.
- Technological and workplace innovations may fundamentally change the way that cities are structured and herald significant changes in how people live and work. Would large-scale changes in how the workforce commutes and operates be able to be accommodated by present zoning regulations? Or would such innovations be prevented from occurring or cause further market distortions?

The unintended consequences of zoning regulations are rarely considered when such regulations are put into place, but can be seen today in cities throughout the country. While it is understandable that local governments want to ensure the best for their communities, it is well worth remembering that planning has downsides also, and that even such a common government tool as zoning may result in undesirable effects for Texans.

Thank you for having me today, and I look forward to your questions. ★

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