



July 2017

A History Lesson

What We Can Learn from Houston's 1990s Debate Over Zoning

Many Americans view history as little more than a collection of semi-interesting stories. History, they believe, has little bearing on contemporary life. They believe that that was then, and this is now. Times have changed.

Viewed properly, history is an intellectual laboratory. We can trace the intellectual causes and motivations of events, movements, and individuals. We can see the consequences of ideas as they are put into practice. We can determine which ideas lead to progress and which lead to stagnation. We can see which ideas promote individual freedom and well-being, and we can see which ideas promote misery. We can learn which ideas are good and which ideas are evil.

Typically, when we study history, we learn about the consequences of something that happened. Seldom is there a meaningful reason (or even the ability) to study something that didn't happen. The history of Houston since the 1990s debate over zoning provides us with a rare opportunity to do just that, and the lesson is enlightening.

Three times in the twentieth century, proposals were made to enact comprehensive zoning in Houston. The most recent attempt began in January 1990. Then-Councilman Jim Greenwood announced that the time was right for Houston to pass a zoning ordinance. City Council unanimously passed an ordinance authorizing the city to begin developing zoning maps. The debate over zoning had begun, and it would last nearly four years.

From the beginning, zoning advocates made numerous promises about the alleged benefits of zoning. When confronted with horror stories of zoning in other cities, they responded that Houston would avoid such problems with "Houston-style" zoning that would be developed from a consensus of the citizens. Zoning advocates predicted assorted catastrophes that awaited the city if zoning wasn't adopted.

On November 2, 1993, Houstonians rejected zoning by a margin of 52 percent to 48 percent. In the ensuing twenty-three years the dire predictions made by zoning advocates have not materialized. And indeed, the exact opposite of their predictions has occurred. The reasons for that disparity, and the implications for present and future policy debates, is the lesson to be learned from history.

The Panacea of Zoning

Advocates presented zoning as the solution to a wide assortment of problems in Houston, both real and imagined. Zoning would protect neighborhoods, enhance our quality of life, empower the people, and promote economic growth.

Advocates pointed to abandoned apartment complexes and boarded up strip malls as evidence that developers were greedy charlatans who had overbuilt because of a lack of planning. They pointed to master planned communities as evidence that Houstonians wanted planning. Zoning, they said, would give the city the power to plan.

Further, they claimed that many companies refused to move to Houston because of the “chaos” resulting from the lack of zoning. The free market, they implied, would destroy the Houston economy. Zoning would bring predictability and order to the city’s development, and thus attract businesses and jobs.

At the time, the oil-dependent Houston economy was suffering. The economy had boomed when oil prices were high, but the oil bust of the 1980s had resulted in a loss of jobs, and as people moved from the city, apartments and businesses closed. The alleged cure-all of zoning was an attractive proposition to many.

When it was introduced by Greenwood, zoning had overwhelming support throughout Houston. The *Houston Post* jumped on the bandwagon with both feet and supplied the horses. Civic groups embraced zoning as a way to protect their neighborhoods. The city government, while ostensibly neutral on the issue, was clearly supportive of zoning as it hosted workshops, conferences, and other meetings to promote the alleged benefits of zoning and solicit citizen input.

It seemed that zoning was a done deal.

Despite the fact that it appeared Houston would soon have zoning, opposition quickly formed. The Houston Property Rights Association became the most visible opposition, and ultimately lead an effort to get zoning placed on the ballot for a referendum. In November 1993, the done deal was undone.

The Predictions and the Reality

During the debate over zoning, advocates claimed that the city’s economic woes would worsen if the city didn’t adopt zoning. They made it sound as if Houston would become a ghost town without comprehensive land-use regulations. But that didn’t happen.

In 1990, Houston had a population of 1,654,348. In 2016, the estimated population is 2,200,000, an increase of nearly 33 percent. Ghost towns don’t grow in population.

For the past twenty years, Houston has consistently been among the cities with the highest job growth. Today, only New York City is headquarters to more Fortune 500 companies than Houston. Clearly, the lack of zoning hasn’t stifled economic growth or failed to attract businesses.

One [study](#) found, that of fifteen major cities, Houston is the most affordable. Compared to Houston, [housing costs](#) are 31 percent higher in Chicago, 102 percent higher in Los Angeles, and 337 percent higher in Manhattan.

In short, Houston has done very well economically without zoning. The city has grown in terms of population and jobs. The cost of living and housing is far more affordable than any of the nation’s largest cities. The dire economic predictions put forth by zoning advocates were grossly wrong.

How did the pro-zoners get it so wrong? Their economic predictions were the opposite of what actually occurred. We could dissect the economics of the intervening years, but economics is an effect. Ideas are the cause, and ideas explain why zoning advocates were wrong. Their economic predictions were wrong because their ideas were wrong. And their ideas were wrong because their principles were immoral.

So, let us examine the ideas espoused by zoning advocates.

Empowering the People

Jim Greenwood claimed that zoning would “empower the people”¹ by giving them a voice in the city’s development. This was to be achieved through seminars, conferences, and other meetings to solicit input from Houstonians to guide the development of zoning maps.

Zoning advocates ignored the fact that Houstonians already had a voice in the city’s development. Individuals expressed their desires by where they chose to live, work, eat, shop, and seek entertainment. The development of the city was a response by developers, builders, and businessmen to the desires of hundreds of thousands of individuals, each acting on his own judgment in the pursuit of his own values. Individuals were empowered because they had the freedom to choose their values and the freedom to pursue them.

And this is what the advocates of zoning wanted to stop. Individuals are not “the people.”

Some Houstonians did not like the choices other individuals made. In response, they sought a means to impose the standards of “the people”—the group—upon others. What zoning advocates could not achieve through persuasion they sought to achieve through force—government mandates and prohibitions. This is what they called empowering “the people.”

Zoning would replace the private choices of individuals with the collective choices of “the people.”

Protecting Neighborhoods

One of the rallying cries of zoning advocates was protecting neighborhoods. Among their chief complaints was the encroachment of commercial establishments into residential areas. Zoning, they argued, would put a halt to this.

Zoning advocates wanted us to believe that there is something inherently wrong with businesses being in close proximity to homes. They argued that such “incompatible” land uses drove down home values, ignoring the fact that that is what has made home ownership affordable for many Houstonians.

Interestingly, mixed-use developments are all the rage today. Many Houstonians want to be close to restaurants, bars, shops, and other businesses. They like the convenience of having businesses near their home. Yet, this was one of the types of development that zoning advocates wanted to stop.

Zoning advocates wanted to give neighborhoods the power to control development to meet the standards of each neighborhood. They wanted to give the collective—the neighborhood—the power to control the actions of individual developers, builders, and businessmen.

Quality of Life

Zoning advocates argued that zoning would improve the city’s quality of life.² Conveniently, they never explained what they meant by quality of life. They simply assumed that every Houstonian understood and agreed with their definition.

Some Houstonians love baseball and others love the ballet. Some enjoy gardening and others enjoy looking at the tops of trees from thirty stories up. Some want to live in the suburbs and will tolerate a long commute; others want to be closer to work. Some Houstonians prefer parks and others prefer malls.

In short, individual Houstonians have a wide range of values and interests. We define quality of life very differently. Yet, zoning advocates sought to impose one definition of quality of life on all Houstonians.

Unfortunately, the quality of life advocates have enjoyed some success in imposing their standards upon all Houstonians. They have passed a landscaping ordinance, which dictates what types of trees

1. “Zoning 101: A guide for Voters,” *The Houston Post*, October 29, 1993, pA39.

2. *Ibid.*

and shrubs property owners may legally plant. They have passed an anti-smoking ordinance, which prohibits property owners from deciding what activities may occur on their premises. They have passed a preservation ordinance, which dictates what certain property owners may do with their property. And these are just a few examples.

In each instance, the values of the collective have superseded the values of individuals.

Promoting Economic Growth

Zoning advocates wanted us to believe that bureaucrats and politicians (acting in the name of “the people”) would do a better job in creating jobs and economic prosperity than entrepreneurs and businessmen. They wanted us to believe that the demands and dictates of city officials would be superior to the voluntary choices of individuals.

Without zoning, its advocates claimed, Houston would never compete with other cities economically. Without zoning, the city’s economy would be dependent on the planning and decisions of private individuals.

As we have seen, their predictions were grossly wrong. Houston has not suffered economically, and in fact has outperformed almost all other large cities.

But economic growth was not a real concern of zoning advocates. If it had been, then they would have recognized the fact that the free market promotes economic growth. They would have recognized the fact that government controls and regulations stifle economic growth.

When confronted with the economic horror stories of zoning in other cities, zoning advocates claimed that Houston would avoid those problems by developing “Houston-style” zoning³. In other words, they claimed that there are no principles underlying zoning. But there are certain principles that underlie zoning, no matter what adjectives precede the name they give it.

The Unifying Principle

We have examined four of the main ideas put forth by zoning advocates. Underlying each of these ideas was one unifying principle: the individual is subservient to the group.

When zoning advocates talked of empowering the people, they meant that developers, builders, and businessmen would be forced to meet the standards and dictates of the group.

When zoning advocates talked of protecting neighborhoods, they meant that individuals could not use their property without the approval of the group.

When zoning advocates talked about improving the city’s quality of life, they meant that they would impose the views of the group upon all individuals.

When zoning advocates talked of promoting economic growth, they meant that they wanted government officials (ostensibly representing “the people”) to make decisions about development.

The very nature of zoning demands that the individual subordinate his own judgment to that of the group. Under zoning, a property owner cannot use his property by right, but only with the permission and approval of the group (as represented by government officials). Under zoning, land use is controlled and dictated by the zoning authority, and any use contrary to that approved by the authority is a criminal act. This is statism—the doctrine that the individual is subordinate to the government.

During the debate over zoning, as details of the zoning maps became known, residents and business owners in neighborhoods such as Southgate, Afton Oaks, and Montrose battled one another over zoning designations. Neighbors fought neighbors over property that only one, and in some cases

3. David Plesa, *The Houston Post*, “New zoning plan could take effect by mid-1992,” January 5, 1991, pA1.

neither, owned.⁴ And the rightful owner often sat helplessly as others argued over the fate of *his* property.

Fortunately, Houstonians rejected this assault on their rights. And the ensuing years demonstrates the practical benefits of freedom.

Houston's Economic Success

Houston's economic success over the past two decades is not an accident. It is a consequence of the city's relative freedom in land use.

Numerous studies have found that zoning increases the cost of housing, as well as the cost of doing business. One report by Professors Edward Glaeser and Joseph Gyourko concluded:

The bulk of the evidence that we have marshaled suggests that zoning and other land-use controls are more responsible for high prices where we see them.... Measures of zoning strictness are highly correlated with high prices. While all of our evidence is suggestive, not definitive, it seems to suggest that land-use regulation is responsible for high housing costs where they exist.⁵

In a 2008 article in *The New York Sun*, Glaeser compared middle-class families in New York City and Houston, Texas. At the time, the median price of a home in Houston was \$150,000; in New York City the median price was \$496,000, and in Manhattan the median home price was \$787,900. Glaeser concluded that home ownership is virtually impossible for the middle-class in New York. Why is housing so much more expensive in Manhattan than in Houston? Glaeser wrote: "The permitting process in Manhattan is an arduous, unpredictable, multiyear odyssey involving a dizzying array of regulations, environmental, and other hosts of agencies."⁶ This process imposes significant costs on developers and escalates the price of every activity that involves land or a building—which means, virtually everything.

Similarly, in 2008, University of Washington professor Theo Eicher found that land-use regulations imposed by the city of Seattle and the state of Washington increased the cost of a home by \$200,000! At that time, the median home price in Seattle was \$450,000, which means that land-use regulations increased the cost of a home by 44 percent. As an example of one regulation, in 2005 Seattle imposed a \$15-per-square-foot surcharge on developers to subsidize low-income housing. That regulation alone added \$9,000 to the cost of a 600-square-foot downtown condominium.⁷

Fewer regulations make it easier for developers, builders, and businessmen to respond to changing consumer desires. Neighborhoods such as Rice Military and Midtown could be and were quickly redeveloped without the endless delays that result from zoning. Under zoning, any change in land use requires public hearings, and as we saw before zoning was even adopted in Houston, those hearings are a magnet for special interest groups.

4. Karen Weintraub, "Bar owners oppose some zoning rules," *The Houston Post*, January 6, 1993, pA11. See also Karen Weintraub, "Zoning plan already has battle lines," *The Houston Post*, October 25, 1993, pA35.

5. Edward Glaeser and Joseph Gyourko, "Zoning's Steep Price," *Regulation*, Fall 2002, <http://www.cato.org/pubs/regulation/regv25n3/v25n3-7.pdf>.

6. Edward Glaeser, "Houston, New York has a Problem," *The New York Sun*, July 16, 2008, accessed February 1, 2011, <http://www.nysun.com/opinion/houston-new-york-has-a-problem/81989/>.

7. Russell Hokanson, Reagan Dunn and Samuel L. Anderson, "Misguided Land-use Regulations Push Middle Class out of King County," *The Seattle Times*, April 9, 2008, http://seattletimes.nwsourc.com/html/opinion/2004335618_reagandunn09.html.

Businesses choose Houston because it is easier to do business here. They do not need to grovel at the feet of zoning officials for permission to use their property as they choose. They do not need to meet the demands and dictates of the group.

Houston has respected and protected property rights more than most cities, and that fact accounts for much of Houston's economic success. But as we have seen, there are many who want to trample on property rights.

Property Rights Under Assault

The right to property means the freedom to create, use, dispose, trade, and keep material values. It means the freedom to use one's "stuff" as one chooses, so long as that use does not violate the same rights of others.

Freedom means the absence of government coercion. Freedom means that each individual can act by right, rather than by permission. It means that the individual is not subservient to the demands, dictates, and values of the group or the government, but can act in the pursuit of the values of his own choosing, so long as he respects the rights of others to do the same.

Property rights mean that a property owner can use his property according to his own judgment, rather than with the permission of the group or government officials.

For the past three decades, statists have sought to impose more land-use regulations on Houstonians. From landscaping to preservation, from anti-smoking ordinances to "green" building codes, the city has steadily and consistently enacted controls on the use of property.

In other cities, these regulations are typically a part of a comprehensive zoning ordinance. In Houston, zoning advocates have taken a piece-meal approach, regulating various types of property (or uses of property) on an ad hoc basis. But land-use regulations, whether implemented piece-meal or en masse, are destructive to freedom, property rights, and economic prosperity. The destruction may happen slower and be less evident, but that does not make it any less real.

Without property rights, no other rights are possible. When property rights are not protected, we witness a continual parade of groups demanding that their "rights" be protected. And their method is to demand the violation of the actual rights of others. The result is a seeming conflict between the rights of various groups.

But groups do not have rights. There is no such thing as women's rights, black rights, gay rights, or neighborhood rights. To claim otherwise is to imply that women, blacks, gays, and neighborhoods have rights that are separate and distinct from men, whites, heterosexuals, and businessmen.

There are only individual rights, and they apply to all individuals, no matter their gender, race, or sexual preferences. Each individual has a moral right to live his life as he chooses, according to his own independent judgment. Again, he must respect the rights of others to do the same.

Rights can only be violated through the initiation of force. If you are tied up, your house is robbed, or a gunman waves a pistol in your face, you are compelled to act against your judgment. The principle does not change if the force is initiated by government officials. If you are threatened with seizure of your property or imprisonment for violating the demands and dictates of government officials, you are compelled to act against your judgment.

That such demands and dictates are enacted in a democratic process does not make them morally right. Individual rights are not subject to a vote.

Democracy Versus Rights

Democracy means unlimited majority rule. It means that the majority may do as it chooses, simply because it is the majority. It is worth remembering that Socrates was put to death by a democratic Athens, and Adolf Hitler came to power in a democratic Germany.

If the “will of the people” reigns supreme, then rights are nothing more than temporary permissions that may be revoked whenever the majority so decides. And this is precisely what zoning advocates attempted to do in the 1990s. They wanted to subject property use to the control and dictates of the majority.

We have already examined a number of the ideas espoused by zoning advocates. We saw that the unifying principle was subservience of the individual to the group. Zoning advocates believed that they could convince Houstonians to vote away their property rights, as well as the rights of their neighbors. If the majority favored zoning, then every Houstonian would be subjected to its regulatory burdens, no matter his own individual judgment.

We have also seen that zoning advocates have not abandoned their goal of controlling the property, and therefore the lives, of Houstonians. Today, they are advancing their cause under the banner of planning.

Avoiding the “Z” Word

In September 2015, Houston City Council adopted a general plan for the city’s future growth and development. The plan was developed after years of meetings, seminars, and conferences that included thousands of Houstonians. As former Mayor Annise Parker [put it](#), “Practical, innovative, consensus based planning can improve collaboration, enhance partnerships, improve policy-making and ultimately deliver higher quality outcomes more quickly and at reduced cost.” In short, planning will “empower the people.”

The [plan](#) adopted by City Council lists a number of strategies and actions. Included are:

- Enhance tools that protect and preserve neighborhoods
- Use localized planning to help neighborhoods improve and maintain quality of life
- Encourage targeted development and redevelopment that support the City’s vitality
- Encourage development that fosters healthy lifestyles for Houstonians of all ages
- Develop and maintain a comprehensive economic development plan, including policies that identify both city-wide and localized strategies.
- Improve and promote Houston’s quality of life to attract and retain talented and creative workers and businesses.

In other words, planning will be used to protect neighborhoods, improve the city’s quality of life, and promote economic growth.

If these ideas sound familiar, it is because these were the same promises and goals put forth by zoning advocates nearly twenty-five years ago. And the reason is: Zoning advocates and planning advocates share the same fundamental principles. Both believe that the individual should be subservient to the group. Both zoning advocates and planning advocates are statist.

While the general plan adopted by City Council does not explicitly mention land-use regulations, such controls have long been a part of the agenda of planning advocates. Does the absence of explicit plans for land-use regulations mean that planners have abandoned that idea? To answer that question, let us first examine the nature of planning.

A plan is the identification of a series of steps to achieve a goal. Planning without the means to implement those steps is an exercise in futility. For example, if the city wants to protect and preserve

neighborhoods, it must have some means for doing so. This means land-use regulations. If the city wants to improve Houston's quality of life, it must have some means for doing so. This means land-use regulations.

The advocates of planning may not explicitly call for land-use regulations to implement their plan. At least they aren't doing so today. But give them a few years. Slowly and incrementally, they will demand more and more land-use controls for the purpose of implementing the general plan.

The advocates of planning failed in their attempt to impose zoning on Houston. They have taken a different approach to land-use regulations. Instead of comprehensive regulations, they seek to get the same result through planning, one neighborhood at a time.

Lies, Misrepresentations, and Scare Tactics

One of the most informative lessons from the debate over zoning was the response of zoning advocates after the referendum. They claimed that zoning opponents resorted to lies, misrepresentations, and scare tactics. Further, they implied that zoning opponents bought the election by outspending zoning advocates.

As we saw with the predictions about Houston's future without zoning, these claims were utterly false.

It is neither a scare tactic nor a lie to take an individual's ideas seriously. Zoning advocates wanted to implement an idea that had historical implications for Houston. When opponents pointed out the principles underlying zoning and used horror stories of zoning in other cities as examples, advocates dismissed those arguments, claiming that what happened in Detroit, New York, or any other city was meaningless. Houston, they insisted, would somehow be different. Principles, they implied, were inapplicable.

To the zoning advocates, any attempt to address principles was a lie, misrepresentation, or scare tactic. To zoning advocates, nobody could possibly know what "Houston-style" zoning would be like until it was implemented.

While decrying the "scare tactics" of zoning opponents, zoning advocates predicted a dire economic future if Houstonians did not adopt zoning. Is this not a scare tactic? They claimed a consensus would be developed to draw the zoning maps, but actual practice proved much different. Is this not a misrepresentation?

In the days after the November 2, 1993, referendum, zoning advocates repeatedly claimed that anti-zoning groups outspent pro-zoning groups by a substantial margin. Opponents to zoning, they implied, bought the election.⁸

Each of these claims conveniently ignored the money spent by the city government to conduct hearings, print literature, draw zoning maps, and more—all of which was in support of zoning. These claims conveniently ignored the publicity and support given to zoning by the city's two daily newspapers.

8. As examples, see: Herman Lauhoff, *The Houston Post*, "City can't stand harm that lack of comprehensive zoning causes," November 6, 1993. Karen Weintraub, *The Houston Post*, "Zoning goes down for 3rd time," November 3, 1993, pA1. "Twilight for Zoning," *The Houston Post*, November 3, 1993, p26A. Tom Kennedy, *The Houston Post*, "You go for lies? I got some here," November 7, 1993. Lori Rodriguez, *Houston Chronicle*, "Can we live with the zoning vote?," November 8, 1993, pA33. Karen Weintraub, *The Houston Post*, "Zoning opponents outspend backers by 4-to-1," October 26, 1993, pA9.

The fact is, the approximately \$500,000 spent by zoning opponents paled in comparison to that spent by zoning advocates. The budget for the city's Planning and Zoning Commission was over \$6 million in 1992 alone.

City officials were not indifferent on the issue of zoning. They overwhelmingly favored it. Their efforts to "educate" the public were entirely one-sided. Which means, every dollar spent by the city was a dollar spent in favor of zoning. And that money came from the taxes of all Houstonians, including those who were opposed to zoning. In truth, zoning opponents were forced to subsidize zoning advocates.

Further, what is wrong with spending money to defend one's rights?

Despite these facts, zoning advocates had the audacity to claim that that their opponents resorted to lies, misrepresentations, and scare tactics. As with their predictions about Houston's future without zoning, the truth was the exact opposite.

The Future

No matter what they call themselves or what strategy they adopt, statisticians have not abandoned their dream of controlling land use in Houston. They may have adopted a new name for their movement and implemented new strategies, but their principles remain the same. They may think that they are fooling us, but when we look at the principles that they advocate, their goals are clear.

In the 1990s, zoning advocates made dire predictions about the city's future if zoning were not adopted. As we have seen, those predictions were the exact opposite of what actually occurred. Today, planning advocates have adopted the same principles and are making predictions about how great the city can be if we turn over our property to their guidance and control.

They were wrong before and they are wrong now. Houstonians do not need zoning, planning, or anything else the statisticians can come up with. All Houstonians need is freedom.

The Texas Institute for Property Rights provides analysis, training, and resources for legislators, businesses, organizations, and property owners.

Voice: 979-429-4447 Website: www.texasipr.com Email: contact@texasipr.com

