Arenas of Conflict:
Zoning and Land-Use Reform
in Critical Political-Economic Perspective

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An adequate understanding of zoning and related land-use regulation issues requires an assessment of their historical and political-economic contexts. Many land-use controversies can be viewed as part of a century-long struggle in U.S. society over conflicting land use interests: "exchange value" interests versus "use value" interests. Pursuit of divergent land-use goals is imbedded in a capitalistic system with distinctive historical features. That political-economic system has unrestrained growth as its internal combustion engine. Individual and corporate investors aggressively pursue their capital investments across rural and urban space, across national and international space, and even into outer space.

Land is a unique type of commodity in this expansive investment process. In terms of the new urban political economy perspective discussed in this chapter, "exchange value" is often the dominant value in land-related decisions under capitalism. This can be seen in the investment actions of developers and speculators seeking to profit from the sale of and construction on land itself. But exchange-value decisions often come into conflict with use-
value concerns emphasizing the utility rather than profitability of space. Such use-value concerns, for example, motivate the decisions and actions of neighborhood residents seeking to keep large-scale urban development projects from intruding on their “home space.” Often reflecting use-value concerns, homeowner-supported zoning and similar land-use controls throw up barriers to the unrestrained expansion of capitalistic investment across urban space. Historically, much pressure for such land-use regulation has come from worker-homeowners concerned with protecting family spaces and neighborhoods against economic, social, and racial incursions. Their commitment to the land is primarily to its use value as a place to live and raise a family. Other pressures for land-use controls have stemmed from local capitalists, such as New York merchants concerned with protecting certain Manhattan spaces for profitable marketing uses. In this case the commitment to the land is primarily to its use value as a place to make a manufacturing or commercial profit. Thus, we have three basic interests in land: (1) in the exchange value of the land itself; (2) in the use value of the land for living, family, and neighborhood; and (3) in the use value of the land for commercial or industrial profit making.

The history of successful and unsuccessful attempts at implementing land-use regulations in the United States is one of conflict, which has taken various forms, including racial conflict, interclass conflict, and intraclass conflict. Often the language of struggle is technical and abstract-legal, but the technical terms are sometimes little more than obfuscating euphemisms for the aforementioned land-related interests. Much discussion in the planning, law, and policy literatures on land use emphasizes the need to seek the “public good.” Indeed, in the Euclid case Ambler Realty viewed the zoning ordinance to be in conflict with the general “public interest,” which meant in reality its exchange-value interest. Under capitalism, what is called the public good or the generalized public interest usually is a parochial interest, because of the major and fundamental class (capitalist/worker) and race divisions there can be no general consensus on most issues of urban development, environmental degradation, and land-use controls. Conflict of interests is the common condition.

This chapter examines the struggle over land-use controls, particularly zoning, in the light of a critical political-economic perspective. After reviewing the replacement of the now-in-decline urban ecological paradigm with the new urban political-economy paradigm, the chapter examines the development of zoning laws in the early decades and assesses certain conflicts over zoning and land-use controls in recent decades with the aid of insights from the new urban paradigm. The next section provides a critical review of land-use reform proposals in the 1960s and 1970s; a concluding section discusses an alternative slate of reforms with land-use relevance, as seen from a progressive-democratic perspective.

The New Urban Paradigm in the Social Sciences

Mainstream Urban Ecology

In the last decade, the dominance of an urban sociology rooted in the ideas of Herbert Spencer has been challenged by a more critical power-contradiction paradigm substantially influenced by a sophisticated reading of Marx, Weber and recent European theorists such as Henri Lefebvre, David Harvey, and Manuel Castells. The first major burst of energy in urban sociology in the United States occurred in the 1920s and 1930s at the University of Chicago. There, researchers such as Robert Park and Ernest W. Burgess drew on nineteenth-century theorists, especially Herbert Spencer, in crafting an ecological framework for viewing urban life. Park and Burgess derived their concept of competitive relations between the human groups from the Spencer tradition; competition “invariably tends to create an impersonal social order in which each individual, being free to pursue his own profit . . . invariably contributes . . . to the common welfare” (Park and Burgess 1924, 507). Together with geographers, these urban sociologists viewed this market competition as resulting in unplanned regularities in urban land-use patterns and thus as generative of a social map of concentric zones moving out in waves from a central business district. These zones were considered to be naturally segregated areas of location for a diverse human population. Segregation of these zones was viewed as ensuring the “common welfare,” another term for the generalized “public interest.”

In the decades that followed, most mainstream ecologists have been more interested in broad demographic trends (e.g., the statistical analysis of metropolitan deconcentration) than in the zonal mapping of Burgess; yet for mainstream ecologists today competition, conflict, and accommodation still take place within a “framework of rules approximately the same as those advocated by Herbert Spencer—with room for social evolution, enterprise, and the survival of those most fit to survive” (Greer 1962, 8). A string of important books and articles from the 1950s to the 1970s (Hawley 1950; Berry and Kasarda 1977) established the dominance of this ecology paradigm in the urban social sciences. The basic assumptions of this framework include an uncritical acceptance of a self-regulation market system (viewed as operating for the public good), a pervasive technological determinism, a downplaying of inequality, and a structuralist approach deemphasizing human actors and classes of actors. While there were some early critics (Form 1954), since the 1950s ecologists have dominated much discussion of U.S. cities. In Hawley’s theoretically oriented analysis, as well as that of other less theoretical ecologists, the central problem of inquiry is usually how a population organizes itself in adapting to a changing environment (“sustenance organization”). There is a strong concern with (societal) balance and equilibration. This equilibrium-seeking ecological view is an
example of what passes for mainstream urban science today, namely, the use of mystifying abstraction and an emphasis on a noncontentious process of adjustment and functional integration to hide the important concrete issues of everyday life arising from the unequal distribution of resources, which both Weber and Marx recognized as a principal driving force of social history. [Gottdiener 1985, 39]

Mainstream ecologists frequently view the functional complexity of cities as determined by transportation and communication technologies. Changes in urban form are explained in terms of some type of technological transformation, particularly in terms of shifts in rail and automotive transport systems. The political-economic history and decision-making context that resulted in the dominance of one type of transport over another is largely ignored. Thus, the role of government (e.g., federal highway programs or the FHA) is often left out of mainstream discussions of such topics as metropolitan deconcentration and suburbanization. However, federal intervention in the form of subsidies of home mortgages, highways, oil production, and decentralized airports significantly encouraged urban deconcentration by reducing the cost of decentralized suburban development. Urban processes such as suburbanization are not simply the natural result of market forces, but rather the result of intentional actions by powerful economic and political actors. Mainstream ecologists have little interest in corporate capitalists or urban residents as actors, preferring instead to emphasize self-regulating markets and market-determined equilibria (cf. Logan and Molotch 1986, 8–9).

Mainstream ecological analysis tends to be conservative in social-justice terms; that is, mainstream analysis tends to see city patterns as inevitable, even as efficient and neutral. The actual patterns of city development are not neutral; they reflect social inequality. The work of mainstream ecologists in sociology, as well as in geography and economics, has on occasion been used to buttress the existing urban system with its built-in social injustices. Thus a 1980 report sponsored by the Carter administration suggested that the federal government should look with favor on corporate growth in Sunbelt cities, to the point of letting northern cities die. Prepared by the President’s Commission for a National Agenda for the Eighties (1980), the report called on the federal government to refrain from assisting the declining cities of the north. This market-knows-best view of the Frostbelt-Sunbelt shift in capital investment drew on the work of such ecologists as John Kasarda (1980) and Brian Berry (1982). In some of Kasarda’s work, profit-seeking by capitalist entrepreneurs appears to be the intelligent directive force in metropolitan expansion and contraction: “An Urban Policy apropos northern cities should be well informed by the favorable business climate that has fostered so much recent economic development in the South” (1980, 389). Profit is also described as an innate sense that drives entrepreneurs to avoid the “negative externalities” of inner-city loca-

tions. The controllers of capital follow the “beneficent” logic of a capitalistic system, which creates good business climates in the Sunbelt cities and which dictates that the needs of working people in northern cities for adequate jobs be sidestepped in the quest for profit. Mainstream ecological analysis has not dealt adequately with such critical factors in urban development as inequality, class conflict, vested capitalist interests operating in space, and government subsidy programs that are pro real estate. In an overview book, Sociological Human Ecology (Micklin and Choldin 1984), numerous urban ecologists and demographers review the question of how humans survive in a changing environment, including cities, but with no significant discussion of inequality, conflict, or poverty.

In addition, mainstream ecologists generally neglect the role of the state in urban and regional development. Not one of the dozen authors in the aforementioned Micklin and Choldin collection discusses issues of government or politics. Earlier books by Hawley (1950) and Berry and Kasarda (1977) give brief attention to such topics as the effect of population shifts on local governments or government housing policies, but no serious attention to the growing and extensive role of government intervention in shaping urban economies. There is an interesting contrast between contemporary ecologists and earlier ecologists such as Park and Burgess. The latter go beyond a strict laissez-faire view to argue that the growth of people, communication, and organizations in cities has so increased mutual interdependence that some state intervention is necessary. Park and Burgess had a Darwinist view of the urban scene, but a “reform Darwinism” or a “corporate-liberal” view which accepted the necessity of an independent state adjudicating conflict and protecting essential values such as private property (Park and Burgess 1924: 512, 558–559). The reason for this emphasis is that Park and Burgess argued that in periods of rapid population growth competition is converted into conflict; the expansion of judicial and other governmental institutions are necessary to mediate this conflict. Many contemporary ecologists, in contrast, seem to have moved away from this corporate-liberal framework back to the neo-individualist framework of the nineteenth century.

The New Urban Political Economy

By the mid-1970s, a number of European social scientists had published critical assessments of the ecology paradigm (Harvey 1973; Castells 1977). The winds of paradigmatic change had blown across the Atlantic; by the 1980s this European influence was one of several important ingredients in the maturing of the new urban paradigm. Over the past decade much published work in urban social science has directly challenged the fundamental assumptions and explanatory schemes of the mainstream ecological paradigm. To take one im-
portant example, Gottdiener (1985) develops a new sociological framework following the lead of Henry Lefebvre, a French urbanist who has accented space as a central feature of modern capitalism and who has portrayed the users of urban space as caught in a web of economic, political, and cultural forces. Gottdiener argues that spatial production is the material manifestation of complex political and economic processes associated with phases of capitalist development. Sociospatial patterns are the outcome of the many complex contradictions in capitalist development, but not always the direct result of a particular capitalist’s actions. What is crucial here is that the “valorization of capital” requires a spatial complex and that class conflict and capital accumulation do not occur in space, but rather they are about space.

The new urban analysts examine the processes and contradictions of capital accumulation in direct relation to urban spatial development. Prototypically, accumulation by a small capitalist elite involves mobilizing and transforming the inputs for production and then selling the output of that production, with the profit from the sale cycled back into production. Investment and concern for exchange value are the guiding forces behind this forever-expansive accumulation process. Since even in this contemporary period of oligopoly capitalism there are usually at least a few corporations in competition in most industrial and other sectors, capitalists are action-oriented and seek investments and profits by transforming labor processes, generating supplies of labor, increasing capital goods, and transforming rural and urban space. The constant renewal of profits is at the heart of this process; profits are invested and reinvested, thus generating change. Late capitalism is not a post-industrial society, as analysts such as Daniel Bell have suggested. Rather, the modern U.S. economy is one which for the first time in history has a condition of generalized industrialization, an economy characterized by the generalization and expansion of mechanization, standardization, overspecialization of labor, and the concentration of capital in virtually all sectors (Mandel 1978). Indeed, the extension of these industrialization, mechanization, and concentration processes to previously neglected areas such as agriculture and urban real estate development is a major characteristic of the current period.

Central in shaping the sociospatial patterns of cities is the development sector of capital (McAdams 1980; Feagin 1983; Gottdiener 1985). Since the 1940s, the development process has involved at least five major categories of development-related decisions—corporate location, land ownership, land development, building construction, and land and construction financing. Some land-oriented entrepreneurs and companies specialize in one area, such as land ownership, but most such companies are multifaceted. Numerous industrial corporations, such as Exxon, have added real estate development subsidiaries in recent decades. Many land-use actors operate in dozens of cities across regional and international boundaries. For example, as of the early 1980s, Canada’s Cadillac-Fairview Corporation, one of the ten largest firms operating in the United States, had eight divisions, including a financing division, a shopping center division, and a construction division. Since the 1940s large firms have increasingly dominated commercial construction in cities (and, to a growing extent, residential development). Some firms started after World War II as local firms tied into a local growth coalition, but they later became complex bureaucracies developing projects in numerous cities and engaging in a variety of financial, landowning, construction, and marketing operations.

The capitalist system of investment, production, and marketing is a powerful engine for the social and physical transformation of cities. Growth in capitalist cities typically hinges on the decisions made by industrialists, bankers, and real estate entrepreneurs calculating profit at the firm level. Social costs have been defined as the negative consequences of for-profit production, as costs that are not paid for by an individual firm but which are shifted into third parties, onto individuals, and onto communities (Kapp 1950). Urban real estate investment decisions commonly create social costs because the decisions are calculated at the microeconomic level of the individual company in terms of its exchange-value concerns: profits, future net revenues, and share of the market. Many problems in cities are generated because decision making affecting the use-value concerns of neighborhoods and communities is done at the level of the individual firm. As a result, much traditional analysis of urban economies has had trouble dealing with the broader social costs linked to private investments. The economist Kapp (1950) has surveyed the literature and suggested that many traditional accounts emphasize Alfred Marshall’s concept of social problems as externalities, of problems as more or less isolated cases of market failure, or they accent outside factors such as rapid technological change or large population shifts stressed by mainstream ecologists. While these latter factors can be important, they themselves are often dependent on more fundamental factors central to the decision-making process of a capitalist system.

Cities are in the first instance physical and geographical environments into which human action has intruded. The physical environment has its own regularities and laws—for example, ground and surface water flows. If these givens are ignored when investment and production decisions are made, then the negative consequences of such decisions may well be substantial. In addition, the high velocity of contemporary investment capital affects social costs. Bluestone and Harrison (1982, 106) have noted that the impact of city growth is greatly shaped by capital velocity:

How much expansion can be absorbed, and how quickly, depends on the dynamics of the people and the environment of the community involved. . . . With suitable planning and reasonable forecasts, new schools can be built, teachers hired, roadways, water, and sewage systems constructed,
and job training. . . . But when the capital influx is totally unrestrained, the absorptive capacity of the social system can be quickly overwhelmed.

The absorptive capacity of a particular city varies not only with the dynamics of its environment but also with the role of government in that context. When governments operate to facilitate profit making by pollution-causing firms or when they retreat from the planning and intervention to deal with the problems created by private profit making, they cooperate in inflicting social costs on the citizenry. The new urban political-economists give particular attention to the role of government (the state) in modern capitalism, drawing in part on the work of James O’Connor (1973) and Jurgen Habermas (1973). The state in late capitalism, according to O’Connor, has had to cope directly with the social crises of capitalism. Government under capitalism must try to meet certain obligations: (1) enhancing capital accumulation and (2) maintaining the legitimacy of the system in the eyes of the public. Capital accumulation is fostered by local and federal government action that increases productivity of labor and the rate of profit, such as government-subsidized industrial development parks, urban renewal projects, airports, and large-scale utility projects. Feagin (1985) has added to O’Connor’s list a third type of state intervention: regulation. Many types of government regulation, including land-use controls, have been implemented under homeowners’ or capitalists’ pressures for government to rationalize a too-irrational capitalism.

While there is still much diversity among the scholars adhering to this new perspective, there is a growing consensus on certain basic concepts and assumptions:

1. Societies are fundamentally shaped by their means of production. Societies are more than demographic assortments of people; rather, they are socially organized along class lines and are fundamentally shaped by the logics of production and reproduction.

2. In this historical period, U.S. and Western European countries are organized around and structured by the capital accumulation process; they are shaped by a class system rooted in that process.

3. This capital accumulation process is centered in firms calculating profit at the firm level and thus results in irresolvable contradictions, such as major social costs not figured into firm accounts, capital flight, and periodic overaccumulation and underaccumulation crises. Capital accumulation involves an ever-expanding exploitation of labor (inequality) on a national and an international scale.

4. This capitalistic class structure and accumulation process articulates with space (place) to generate patterns of urban structure, growth, and decline.

5. The state in modern capitalistic societies, usually under the control of capital, plays a crucial role in fostering capital accumulation, in groping with market contradictions, in mediating struggles between classes and fractions of classes, and in enhancing the legitimacy of the established political-economic system in the eyes of its inhabitants (Gotttdiner and Feagin 1988).

The contrast with mainstream Spencarian ecology is clear. From this critical perspective, society is characterized by antagonistic class relations that generate change; change is not simply generated, as the mainstream ecologists would have it, by a biotic integration and equilibrium upset only by outside social influences such as the incursion of new technologies (e.g., the automobile). Much change flows out of the conflict-ridden capitalist system and its mode of production. U.S. and West European societies have seen the emergence of strong capitalism-conditioned states, which attempt to intervene to solve crises in market functioning and capital accumulation, as well as to mediate intra- and interclass conflict. The inequality of power, of control over economic and political resources, is a central feature of capitalistic societies, and thus of their cities, and not an inevitable consequence of societal organization as the mainstream ecologists would have it (Hawley 1981, 224). In addition, the new urban approach emphasizes the point that no society is an island in time or space; it must be analyzed in light of its political-economic history and its position in an increasingly globalized capitalistic system.

Zoning in Political-Economic Perspective

The new urban paradigm points to the import of broader historical and political-economic frameworks for a deeper understanding of developments in governmental land-use policy such as zoning and similar regulations. Let us now turn to the early decades of zoning in the United States.

Investment Expansion and City Growth

Between 1916 and the late 1920s, zoning and related land-use laws became dominant governmental policy in U.S. cities. This state intervention in economic matters did not take place within an economic or social vacuum. Indeed, it was the direct result of efforts to alleviate some of the negative effects (so-called externalities) of rapid capitalistic expansion—of the accelerating capital flows moving into industries in numerous U.S. cities between 1870 and 1930. Industrial capitalists usually sought out cities for labor supply reasons. There were already workers in many towns and cities from the commercial capitalist period prior to the 1870s. Labor migration and population growth also followed capital investment. The concentration of the new industries in many cities stemmed from decisions of top corporate executives or free-wheeling entrepreneurs establishing dominant major industries. As plants and factories became situated in certain cities in this national investment process, the new urban workplaces attracted workers from rural areas, from the South,
and from Europe. In this 1870–1930 period, cities were booming and industries of a dozen major varieties were locating hundreds of plants in them. Professional, managerial, technical, and skilled blue-collar workers increased to significant numbers, opening up by the 1920s a new market for consumer goods, including mass-produced automobiles and houses in central cities and the suburban rings. By 1922 there were 135,000 homes in the suburbs of sixty cities that were dependent on an auto-centered transport network (Flink 1975, 164). Without the significant increase in a relatively affluent group of white-collar and skilled blue-collar workers, there probably would have been no suburban expansion and thus no zoning litigation.

This suburban expansion slowed dramatically in the 1930s because of an overproduction crisis in U.S. capitalism. Overproduction in the automobile industry during the mid-1920s triggered huge layoffs in all auto-related industries, thus precipitating the general economic crisis called the Great Depression (Flink 1975). Sharply expanded state investments during and after World War II bailed the nation out of that major crisis and further accelerated the growth of suburban development and zoning regulations.

*The Interventionist State*

Ecologists and other urban analysts have often neglected the critical role of the capitalist-conditioned state in shaping U.S. cities. The history of cities in the last century is not only a history of boom–bust capitalism, of capital investments and capital strikes, but also a history of gradually increasing state intervention, at several levels of government, into the national and urban economies, in large part to deal with market-generated pressures, crises, and contradictions.

This state role in urban structuring and restructuring has taken a number of different forms. There are numerous state subsidies to foster accumulation in favored industries. Both the federal and local governments, for example, have played a central role in subsidizing the growth of the auto-truck industry. By the 1910s and 1920s, state subsidies for transport systems were shifted away from interurban rail systems and intramural mass transit to highway systems and other infrastructural facilities necessary for the auto-truck industry to expand production and sales. This "socialized" infrastructure facilitated the dominance of and profit making in the auto and truck firms, a situation unique among major capitalistic countries. One result of this state action was the fostering of a distinctive expansion of suburbia in U.S. conurbations. Moreover, after World War II suburban expansion continued to be related to an expansion of an auto-centered highway system. This socialized highway system cost local, state, and federal governments no less than $249 billion between 1947 and 1970. The nationalized, auto-centered system and its accompanying car culture occurred "less because of consumer demand in a competitive market than because of the government's massive indirect subsidization of the automobile and oil industries, especially through the Interstate Highway Act of 1956" (Flink 1975, 213). Rail transit, utilized for people transport, was a major casualty of this state bias toward the automobile. O'Connor's theory of the role of the state in modern capitalism, particularly his emphasis on the role of the state in facilitating capital accumulation—and thus in this case facilitating urban deconcentration and zoning segregation—can be seen in these historical events.

Local and federal support of capital accumulation in this period was accompanied by growth in the number and significance of local governmental units. From the 1890s to the 1930s, and again after World War II, there was a major increase in the incorporation of municipalities around cities. By 1920, Cook County (Chicago) had 109 such municipalities walled off from the central city. Pittsburgh had 107 and New York City had 204. During the decade of the 1920s, new suburban areas were created by the dozens around U.S. cities (Judd 1984, 173). After World War II, moreover, the numbers of walled-off suburban municipalities continued to increase. This balkanization of cities reflected a growing concern for the externalities of expansionist investment, a concern among those managers, professionals, and affluent blue-collar workers able to decentralize their residences. These suburban areas (and protosuburban areas, e.g., the village of Euclid) sought to protect their families, homes, and neighborhoods from the noise, pollution, congestion, and other negative consequences of industrial expansion, as well as from white immigrant and nonwhite workers drawn to cities by the new industries. In their origin, zoning and related regulations represent an attempt to use government to solve the negative problems created by the aggressive exchange-value expansionism of industrial and commercial capitalism. The willingness to give up a laissez-faire approach to government for increased intervention appears by the 1920s, not only in regard to zoning but also in regard to the regulation of many aspects of the American economy.

The zoning regulations used in suburban municipalities had first emerged in central cities, with New York City being the most important of these. By 1910, the New York Real Estate Board had advocated limiting the height of buildings. Reportedly, real estate values in the retail section of Manhattan had decreased by half in the decade prior to 1916; in particular, Fifth Avenue retail merchants were worried about the encroachment of the Jewish garment merchants, their new buildings, and their immigrant workers. The 1916 New York zoning law resulted from pressure from these central Manhattan merchants, rather than from homeowners. In this case, the concern was primarily with the commercial use value of the land, a concern for retail marketing and profit making by merchant capitalists concerned with maintaining a presence in a particular urban land space. Yet this New York law was influential in broadcasting the concept of zoning to cities across the country. By 1920 there were
904 zoning ordinances, according to a survey of the U.S. Bureau of Standards. Altogether, 82 of the 93 largest cities, those over 100,000 in population, had zoning laws. By April 1932 there were 766 comprehensive zoning ordinances (Davies 1958, 146). Under the zoning acts of the 1920s state governments delegated land use planning and controls to local governments, which in turn provided zoning ordinances.

Central city merchants and suburbanites played an important role in the emergence of zoning and allied planning regulations, but there were other powerful actors as well. There were those actors whose principal concern in real estate transactions was with the exchange value of land, particularly builders, developers, and real estate brokers. Before there were large developers engaged in residential and commercial construction in central cities and suburbs, there were smaller developers often called "builders." Initially, some business leaders representing these builders were opposed to zoning. In 1911, one leader argued at a National Planning Conference that the "German policy" of city zoning may come in the future, but "it is as yet undemocratic" and "savors too much of class-consciousness, to be popular in America" (Davies 1958, 78). Soon, however, the views of the leadership of the National Association of Real Estate Boards reflected the fact that local boards were strong supporters of zoning (Davies 1958, 78). According to Davies (1958, 146), these U.S. real estate boards played an important role in framing the model zoning enabling act in 1925.

Zoning Validated

In Village of Euclid v. Ambler Realty Co. the Supreme Court dealt with a zoning statute passed by the village of Euclid, an area adjacent to Cleveland and just beginning to be a suburb. By 1920, the village of Euclid had 3,263 inhabitants and was still mostly farmland. Some areas of the village were being developed for residences, but much was still undeveloped. In 1922, the village adopted an ordinance establishing comprehensive zoning of all land. The intent of the ordinance was to reserve much of the village land for residential development and to segregate industrial plants near the major rail lines. When much of the land owned by Ambler Realty was designated for nonindustrial use, Ambler pursued its lawsuit. Ambler Realty argued that zoning regulations will "throttle the great metropolises with a multitude of local regulations, in conflict with the general public interest" (Fluck 1986, 326). As with many real estate corporations, special pleading for profit was couched in terms of the general public interest. As the new urban political economy has demonstrated, in a class-stratified capitalist society there is often no general consensus on land-use matters. There is the interest of corporate investors, and there is the interest of worker-homeowners in suburban areas. Indeed, arguing for Ambler, attorney Newton Baker pointed out that no village or suburb could anticipate

in its planning the freewheeling expansionism of capitalist investors: "the surging and receding tides by which business evolves and grows" (Baker, 653).

Reportedly, the author of Euclid, Mr. Justice George Sutherland, initially viewed the ordinance in a negative light, but he was convinced to alter his view. Influenced by the thought of Herbert Spencer, the prominent nineteenth-century sociologist who influenced mainstream urban analysis, Sutherland was a foremost advocate of laissez-faire. Sutherland was similar to many early and contemporary urban ecologists in his respect for Spencer's thought, which apotheosized the public benefits of a market system free from government interference. Like the ecologists, Sutherland was "so immersed in the Spencian philosophy that he had no power to criticize it judiciously ... no vantage point from which to see how much of Spencer was merely the expression of an age" (Paschal 1951, 242). In Spencer's view, government resulted from such an increase in population that people came into conflict with one another. But government was not neutral and should be limited to settling disputes and preserving order in the face of overcrowding (Paschal 1951, 9-15). Going beyond Spencer a step or two, both ecologists such as Park and Burgess and jurists such as Sutherland accepted some governmental intervention into the complex workings of a capitalist economy. Thus, in Euclid, Sutherland argued that growth in population meant growth in social complexity; and that growth in complexity required the intervention of the state to protect private property. Zoning was not a taking of property, but in fact a protection of property. Common law permitted the abolition of nuisances; the Euclid zoning law protected residential property (residential-use values) from the nuisance of the industrial development sought by the Ambler firm. Since in Sutherland's view the problem was created by significant demographic growth and overcrowding, the zoning ordinance was beneficial in that it protected private property from divergent land-use incursions (Paschal 1951, 26-27).

Conflict over Zoning

Early Criticisms

Zoning regulations had become the target of much criticism by the 1930s. In that decade, questions already were being raised about the large number of zoning variances being granted in various cities. City councils and boards of adjustment were accused of destroying zoning maps and thus of breaking down the integrity of the zoning districts (Toll 1969, 281). Zoning variances had become "marketable commodities, with investors subverting the law." This problem has persisted since the 1930s. For one example, in the 1960s the executive director of the American Society of Planning Officials cited with
approval the statement of a city planner: "You can buy with money any kind of zoning you want in half the communities of the United States" (quoted in Toll 1969, 301). The complaint here seems to be with the way in which local developers and land entrepreneurs gain concessions. Because the governments in cities and municipalities historically have depended on taxes from development to survive, they often have gone out of their way to provide zoning concessions to local developers. Not unexpectedly, bribery scandals have been common in the history of zoning. In recent decades there have been pay-off scandals in New Jersey, California, New York, and Chicago (Popper 1981, 52).

While residential use-value concerns seem to underlie some of the criticism of zoning variances, there have also been many criticisms from those real estate actors preoccupied with the exchange value of land. By the 1930s, some leaders in the real estate industry were criticizing certain failures of zoning laws. Walter Schmidt, then NAREB president, called for replanning and rezoning because "in the average American city many times as much property as can ever be used has been allocated for apartments, business, manufacturing, and industrial purposes, crowding out and destroying home neighborhoods" (quoted in Davies 1958, 184–85). He acknowledged that real estate people were "the most aggressive group in the organized planning movement" and were partially responsible for "blunders made." An early advocate of zoning reform and streamlining, Schmidt anticipated the reformers of the 1970s when he called for state housing and planning acts to coordinate and simplify local codes.

Challenges to and Conflicts over Land-Use Restrictions

There was no real challenge to zoning at the Supreme Court level until the early 1970s. Yet in the decades before and after the early 1970s there has been conflict over land use and land-use controls. Much of this has centered on three areas of dispute: (1) low-income and minority apartment buildings; (2) environmental quality and no-growth issues; and (3) community attempts to restrict expansion by big developers. Each of these areas of dispute has involved zoning and related land-use ordinances, but each also has encompassed different sets of actors. Thus the issue of low-income apartments has often been a struggle between low-income minority families and civil rights advocates on the one hand and white suburban families on the other. The struggle over the environment has often pitted environmentalists and local residents against developers and their allies. And the third struggle has been suburbanites and residents in other residential subdivisions struggling to keep out large-scale urban development projects such as the shopping malls, power plants, and highways desired by large development firms.

The Civil Rights Challenge to Exclusionary Zoning

Racial and ethnic separation and exclusion have been at the heart of urban land-use regulation since the 1880s. Indeed, the first zoning actions were taken in San Francisco in the 1880s in order to stop the spread of Chinese laundries. The 1916 New York City ordinance originated from Protestant and German Jewish merchants on Fifth Avenue pressing for zoning to protect their marketing area from the garment factories of southern and eastern European Jewish industrialists and workers. Popper (1981, 55) calls this "racism with a progressive, technocratic veneer."

This technocratic racism has persisted in suburban zoning laws used to exclude minority families. In this case, the dubious use-value concerns of affluent suburban homeowners have been enshrined in land law, but the use-value concerns of less-well-off Americans have not been recognized in this fashion. Many suburban areas ring U.S. cities are self-governing; most such areas are controlled by whites, with no blacks participating in the establishment of local government regulations. "Exclusionary zoning" in suburbia usually includes such things as prohibition of multi-family units and mobile homes and minimum lot-size restrictions. Suburban zoning laws have been successful in excluding not only low-cost housing, but also many minority families.

Moreover, the location of publicly subsidized housing in city and suburban areas has provoked considerable discussion of exclusionary zoning laws. Local governments control the sites for public housing, while the federal government provides most of the money. But federal agencies have provided little protection for minorities against discrimination by local governments. Instead, federal agencies have played an important role in perpetuating the encapsulation of minorities in ghetto areas by allowing federally subsidized housing projects to be concentrated by local governments in segregated areas. Although the federal government has the authority to cut off funding to local agencies that do not comply with fair housing laws, it has shown a preference for local wishes. White fear has prompted suburban governments to turn down federal funds in order to retain local control and exclude public housing, and thereby minority families.

In the mid-1960s, the Chicago Housing Authority (CHA) presented a proposal to the city council to construct low-rent public housing projects throughout the city. At that time virtually all of the public projects already built were located in ghettos. The CHA proposal was rejected by the city council; the CHA then made an unsuccessful appeal to federal officials in Washington, following which the CHA retreated to the segregated policy the city council desired. A group of black tenants and applicants filed suit in 1966 against the CHA, charging it with selecting its public housing sites to keep blacks out of white neighborhoods. The federal government was charged with financially supporting these discriminatory practices. Three years later in Gautreaux v.
the federal district court found CHA guilty of violating the constitutional rights of black tenants by its discriminatory site selections and tenant assignments and ordered the CHA to disperse future housing in all-white neighborhoods, discontinue its discriminatory assignment procedures, and move rapidly to increase the supply of nonsegregated units. In a subsequent case, the federal housing agency was also found guilty of helping to perpetuate "a racially discriminatory housing system in Chicago." The CHA's refusal to comply with the order prompted a maze of further litigation (Feagin and Feagin 1978, 108–10).

In *Hills v. Gautreaux*, the Supreme Court held that the federal housing agency must provide low-income housing in the Chicago suburbs. But the Court allowed local municipalities to retain their zoning powers. The white mayor of a Chicago suburb said, "I really don't think the federal government will go charging out to the suburbs to put in housing where it's not wanted. If you don't have local cooperation, you'll have a hell of a situation." Alexander Polikoff, an attorney who has been involved with the public housing debate for a long time, argued that the Court's decision to uphold local zoning powers would limit the effectiveness of the low-income housing dispersal order: "Any community that wants to oppose subsidized housing can use its land use powers just as it always has" (Feagin and Feagin 1978, 110–11).

Arlington Heights, an affluent Chicago suburb, resisted the building of low- and moderate-income multifamily housing units by using its zoning regulations. The publicity expressed concern did not explicitly touch on race, but rather on the way in which local property values in this single-family area would be affected by multifamily housing units. However, the real concern was keeping neighborhoods exclusive. After the local zoning board voted nine to two against the necessary rezoning proposition, the case went to the federal courts. Because there was no evidence of racially exclusionary action on intentional grounds, the Supreme Court upheld this zoning decision in an important case, *Village of Arlington Heights v. Metropolitan Housing Development Corp.* The Supreme Court had retreated to the position that racial discrimination must be proven by complainants to be intentional in order for it to be ruled illegal (Feagin and Feagin 1978, 111).

With the Supreme Court showing a reluctance to deal with the obvious discrimination institutionalized in zoning in the suburbs, it has been left to the New Jersey Supreme Court to order change in segregated housing patterns. In a celebrated case, *Southern Burlington County NAACP vs. Mount Laurel*, the New Jersey justices unanimously reaffirmed an earlier *Mount Laurel* decision and ordered Mount Laurel and similar suburban communities to develop inclusionary zoning practices; in effect, "every municipality's land-use regulations . . . must provide a realistic opportunity for decent housing for its indigenous poor" (Babcock and Siemon 1985, 212). The New Jersey court had in effect suggested that 20 percent of any new housing development be set aside for low- and moderate-income families. The exact figures for particular communities have been the source of much debate, but the radical implications of this New Jersey decision are quite clear: Towns and cities must allow for the housing of people of all income levels. The Republican governor of New Jersey even went so far as to say that the decision was "communistic" (Babcock and Siemon 1985, 215). The New Jersey Builders Association, made up primarily of smaller developers, expressed opposition to this government intrusion into the free-market economy. As in other cases of state action, some larger developers, in contrast, have seen the new situation as an opportunity, for they have the greater resources to comply with the development regulations. For them, at least, it is helpful that these particular land-use regulations are consistent across the state of New Jersey (Babcock and Siemon 1985, 220). Nonetheless, New Jersey stands virtually alone as the state which has sought to recognize as legitimate the use-value interests of the bottom third of the U.S. population, the concerns of moderate-income tenants for decent living space.

The No-Growth Restrictions: Zoning for Use Values

Zoning and related land-use laws have been used for a variety of purposes. One purpose has been to exclude minorities. Yet another purpose has been to try to maintain a certain quality of life. In the last two decades, numerous cities and towns have become greatly concerned about the social costs of urban growth; some have passed growth-control ordinances. Many of these costs have stemmed from the decisions of commercial, industrial, and real estate capitalists calculating company profits at a microeconomic level. As the urban political economy perspective would suggest, because corporations do not figure social costs into their balance sheets, the costs are not charged against the profits the firms make from producing and marketing products. As Bluestone and Harrison (1982) noted in the passage above, unrestrained capital influx, whether in the form of large subdivisions or rapid industrial expansion, can overwhelm local government capacity to cope with the capital flow.

It is not surprising then that cities and towns in the growing areas of the United States, such as the Sunbelt, have been the most likely to regulate growth. The no-growth movements in many towns and cities have increased the number of local laws with which developers must cope. In the last decade the no-growth movement from Florida to California has resulted in laws specifying large-lot zoning, restrictions on the number of sewer and water taps, limits on housing permits, and delayed service provision for large projects. This has sometimes created a war between development interests and local citizen groups and their governments. The expansion of local zoning and planning ordinances to regulate growth runs directly counter to the interests of most development capitalists. Moreover, it is of interest that communities of