

could save thousands of lives a year. If even that hasn't been able to budge public opinion, it's difficult to see how policy advocates will be able to persuade their squeamish fellow citizens to simply "get over" their aversions. That's not Brennan and Jaworski's job, of course, but it does somewhat deflate the enjoyment of their well-reasoned arguments to realize that the task at hand is nothing less than "change American culture." I'll get right on that.

*Markets without Limits* probably won't, as the authors hope, "put philosophers out of the business of talking about the moral limits of markets" (especially since that seems to be one of the few commercially popular topics in academic philosophy), but hopefully it will help generate better conversations among academics and students. Clarifying the debate on the morality of markets *per se* versus the business practices of particular market actors will, on its own, go a long way towards helping capitalism's critics better frame their objections and capitalism's defenders better respond to them. Brennan and Jaworski's book both clarifies the debate over the limits of markets and shows how honest intellectuals can forthrightly and effectively respond to critics of markets.

Richard Morrison  
Competitive Enterprise Institute

### **Zoning Rules! The Economics of Land Use Regulation**

William A. Fischel

Cambridge, Mass: Lincoln Institute of Land Policy, 2015, 432 pp.

Something has gone terribly wrong in America's cities in the last few decades. Real estate construction has fallen behind demand in cities like New York, San Francisco, Austin, and Miami. Rents are rising, and both current and prospective residents are having a hard time keeping up. The good news is that we know why this is happening. Mainstream economists agree that burdensome restrictions on building new housing in prosperous cities hurt economic growth, exacerbate inequality, and stifle entrepreneurship. The bad news is that it's going to be a huge challenge to fix. This is the lesson that *Zoning Rules!* teaches us.

The book is the magnum opus of Dartmouth economist William Fischel, the follow-up to his acclaimed 1987 book *The Economics of Zoning Laws*. In the nearly 30 years between these tomes, Fischel

spent his career exploring how land use rules came to be and what role they would play in the economy and society. Through careful history, a thorough understanding of property law, and sound economics, *Zoning Rules!* weaves a story of the rise of the exclusionary zoning laws that have come to strangle housing development in major metropolitan areas.

The early years of zoning laws were relatively harmless and mundane compared to what would come later. Urban planners and the officials they appointed generally made pragmatic decisions that reflected the opinions of their constituents. When excluded from one town, developers could find another nearby. Minority factions had trouble blocking development if they lacked political power. It was the era of “good housekeeping” zoning. Fischel defines “good housekeeping” as basic separation of activities, such as noxious industry from residential areas, without attempts to control or micromanage growth. The period saw a boom in suburban building that would taper off over time.

Fischel’s theory is that something changed in the 1970s. A confluence of events precipitated the rise of exclusionary laws in the suburbs of the nation’s cities. Employment decentralized from areas near ports with the advent of trucking, the interstate system, and the shipping container. Freed from center cities, industry fled to places where land was cheap and plentiful. The period saw housing grow to take up a greater share of household wealth. Combined with the civil rights movement’s reforms, the period saw a serious increase in demand for exclusionary housing restrictions. Yet, demand is only part of the story. The supply pressures of exclusionary laws were serious. Unlike labor or capital, moving land from one municipality to another, while not impossible because of processes like municipal annexation, is a serious challenge. With ability to relocate to places with more hospitable legal institutions, weak zoning laws play a key role in the land use decisionmaking process.

The period also saw the federalization of the environmental movement combine with the expansion of legal standing of development opponents and the advent of multilayered review by state government. Different departments and government bodies were given power to oversee various aspects of building. Development was bureaucratized, and with it, the transaction costs of the building process increased. The power dynamics of local government

underwent a fundamental change. What was once a regime of “good housekeeping” laws was corrupted.

More than anything, *Zoning Rules!* is a textbook of land use economics. Fischel is no pundit. Indeed, his grand theory isn’t presented until the middle of a chapter in the middle of the book. Like its predecessor, *Zoning Rules!* is written to both explore and explain. It begins with a chapter laying out basic concepts of land economics, the basics of supply and demand for housing. The second chapter explains how zoning laws work and how they are administered. He takes particular issue with the rise of so-called “conservation easements,” agreements for developers to provide part of their land as green space in perpetuity in exchange for regulatory concessions. Such easements make adapting to changing local conditions in the unknown future more difficult, and locking up ever more land for greenery makes little sense, Fischel argues.

Fischel’s third chapter provides a thorough examination of how various court rulings from the 1920s onward have shaped the legal landscape of land use regulation, starting with the famed case *Euclid v. Ambler*. In *Euclid*, the Supreme Court found zoning laws to be a legitimate use of the police power so long as an action was in promotion of health, safety, morals, or general welfare. Fischel makes clear that zoning was and is a popular, organic institution that arose to address real citizen concerns about locating noxious, often-industrial uses near homes. When courts in New Jersey deemed zoning unlawful, the state constitution was changed with overwhelming citizen support. “We have zoning because a large majority of voters almost everywhere want it,” notes the professor.

The legal history of land use regulation has seen many attempts to attack exclusionary aspects of zoning. In the mid-1970s, cases such as *Warth v. Seldin* and *Arlington Heights v. Metropolitan Housing Corp.* precluded claims under the Equal Protection Clause of the 14th Amendment. The chapter goes on to explore the details of the legal evolution of the Takings Clause. The chapter gives an overall impression that the Supreme Court’s land use rulings are generally pragmatic. The courts have generally avoided rulings that would give the judiciary a central role in the land use dispute adjudication process. Rulings have given cities wide latitude to make land use decisions as they see fit, so long as the rules are not particularly egregious, such as attempts to institute racial zoning or take physical property.

Fischel then lays out his theory of how zoning transformed from a generally benign, popular, functional system of “good housekeeping” regulation to one captured by special interests. Of particular note is the rise of new layers of project review that give a political voice to those not directly affected by a particular development. Today, too many people have a say in what gets built where. Minority factions have the power to drag out the approval process or disapprove projects outright. What were once local matters between a developer, a municipality, and potential neighbors have seen the advent of layers of review by environmental agencies, transportation agencies, community groups, and others. The balance of power in such negotiations has shifted away from developers and toward special interests. Unlike in the era before the 1970s, today the permitting process can take years, with ample opportunities for special interests to demand concessions for their cooperation. Developers must either accept the demands, negotiate, or risk the fate of their project. Today, large developments often include a suite of community amenities from the beginning of the design process—typically things like public parks or plaza spaces, artwork, pedestrian or bicycle paths, transportation improvements, or support for community groups—in an effort to stem calls for even greater concessions.

Fischel has spent his career arguing that housing prices incorporate all positives and negatives about living in a particular place. The price of housing is not simply the price of the house, but the aggregate of the positives and negatives of living in that particular place. In a sense, housing prices approximate the bundle of club goods available to those who live there. Prices are increased by amenities like good schools, nearby parks, access to jobs, well-run city services, low traffic, and other such factors. Prices are decreased by disamenities like crime, proximate blighted properties, weak government services, high taxes, and other things that might dissuade a prospective resident.

Moreover, ease of building can be an amenity, and difficulty of building can be a disamenity. According to Fischel, the relative challenge of building will be incorporated in real estate prices because homeowners value their right to build on their property or be able to sell to a party who would do so. In this sense, the ease of building is just like any other amenity or disamenity that can increase or decrease housing prices.

A major component in the value of a property is the implied value of changing its use. Current land use restrictions are incorporated into property values, albeit indirectly. When rules disallow most redevelopment, such as by setting maximum occupancy limits, minimum lot sizes, or restrictions on what activities may take place on the property, the property's value is lower than it otherwise would be. The rules are counterbalanced by the fact that they increase property values of homes across the area by limiting competition for prospective buyers. Overall, homeowners benefit from decreased competition in the local housing market—even if an individual homeowner loses the opportunity for greater personal benefits. Existing homeowners have every reason to organize in favor of growth-limiting laws, such as greater lot sizes, more parking, and fewer multifamily homes. The process is exacerbated by the fact that, in most places in the United States, school attendance is tied to geography.

Homeowners form the most vocal faction in local government, argues Fischel, and that's why growth controls have overgrown their original purpose. The link between school assignments and real estate throws gasoline on this fire. The benign, "good housekeeping" zoning of the past has given way to the era where cartels of homeowners wield market power to depress competition and capture rents. The age of the "homevoter" is upon us. Fischel explained this theory of local government captured by activist, cartelized homeowners in his 2002 book, *The Homevoter Hypothesis. Zoning Rules!* follows up on the past book with reflections on legal developments in the decade after. For instance, the first 15 years of the 21st century included the famed Takings case *Kelo v. New London*, when the Supreme Court relaxed the requirements for a "public use" taking, and the backlash it created.

Fischel deserves credit for being honest about circumstances where he changed his mind on issues and for his humility about how challenging reform will be. Nearly three decades of history stand between *The Economics of Zoning Laws* and *Zoning Rules!* Fischel spent part of that time as a zoning practitioner, sitting on the zoning board of Hanover, New Hampshire. While he correctly understood the perverse political economy of land use from the outset, Fischel makes clear that he was overly optimistic that action by the judiciary branch would stem the homevoter tide. Unlike many scholars, he understands that his desired reforms would be unpopular for a reason, and that homevoter interests truly are a

great challenge to overcome. Toward the end of the book Fischel admits that even he, a leading zoning scholar, sitting on the board of a town of only 10,000 people, struggled to bring any substantial reform to the town's zoning laws.

While generally a sound analysis, Fischel's argument does have opponents. He advocates for a piecemeal approach to zoning, allowing a great deal of leeway for developers to negotiate the regulation of a parcel with both the municipality and potential neighbors. Some, most famously Yale professor David Schleicher in his article "City Unplanning," have argued for a more holistic approach to the land use regulation process. Schleicher argues that a strong city plan, combined with insulation of zoning institutions from political pressure and special interests could be enough to stem the shortage of housing in desirable cities. These plans seem fragile to Fischel. Urban planning has proven throughout its history to be prone to interest group capture. He argued, in *Regulation* magazine and elsewhere, that any new, stronger planning institutions may, too, fall victim and could make matters worse.

There are also questions about one of Fischel's fundamental insights. Fischel pins the anti-development impulse among homeowners on the uninsured risk that development could cause property values to fall. His theory is strong for most locations, but might not be sufficient everywhere. In desirable places, homeowners stand to make windfall profits from denser zoning when they sell their properties to developers, yet, instead, they advocate for decreased density and other disamenities. This is the manifestation of an exclusionary impulse to signal to prospective residents who is welcome in a particular place and who is not. Neighbors are attempting to curate the kind of people with whom they may be forced to interact. In many cases the rich may attempt to exclude the poor. Many college towns attempt to use building occupancy maximums to sequester students to particular areas by preventing the subdivision of single family homes into group houses. Fears of gentrification can lead to attempts to prevent redevelopment for the wealthy to prevent displacement of poor neighborhood residents. The list goes on. Importantly, these rules shift costs of zoning laws from developers and neighbors to disenfranchised potential neighbors. Fischel's theory, while valuable, does not do enough to show how this impulse to curate the makeup of one's neighborhood plays into the political economy of land use.

Like *The Economics of Zoning Laws*, *Zoning Rules!* is one of the most important books on land use economics in a generation. The book came out at an auspicious time, as many are beginning to turn against zoning laws. In 2015, intellectuals on the left and right, academics and policymakers alike, have realized the damage high housing costs in prosperous places is doing. Fischel's theory of homeowner capture of local politics elegantly explains how the nation arrived at this unhealthy equilibrium.

People may disagree with the author over whether zoning is the best way to handle the problems that arise from coordinating land use decisions, but it is clear that his theory is based on sound economic history and legal analysis. *Zoning Rules!* is not a book of punditry, out to push a theory. It is a book that seeks to explain how land use decisionmaking works. At that, it succeeds better than any of its peers. If you want to read a single book about land use regulation, *Zoning Rules!* should be that book.

Nick Zaiac  
Mercatus Center  
George Mason University

### **The Unquiet Frontier: Rising Rivals, Vulnerable Allies, and the Crisis of American Power**

Jakub J. Grygiel and A. Wess Mitchell

Princeton, N.J.: Princeton University Press, 2016, 240 pp.

In *The Unquiet Frontier*, Jakub Grygiel and A. Wess Mitchell have articulated a provocative justification for a revitalized strategy of containment focused on China, Iran, and Russia. That strategy is based on what they call the “rimland imperative”—the notion that U.S. security and prosperity are vitally dependent upon supporting allies against the encroachment by “revisionist” states (those intent upon overturning the established geopolitical order) on the periphery of Eurasia, stretching “from the Baltic Sea to the Black Sea in Europe, through the Levant and Persian Gulf to the Indian Ocean and up through the littoral Asia to the Sea of Japan.”

In many ways, *The Unquiet Frontier* is unduly alarmist. The contention that “the U.S.-led global alliance network could unravel in coming years” is certainly hyperbolic. Over the past decade, a number of prominent analysts have voiced trenchant arguments in