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DEMOCRACY AND PLANNING:

What Is the Most Democratic Way to
Make Planning Decisions?

SPUR DISCUSSION PAPER

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INTRODUCTION

In the name of greater democracy, San Franciscans voted to elect the Board of Supervisors by districts instead of city wide (in 1996) and then to change the method of appointing planning commissioners (in 2002). Eight neighborhood plans are currently underway, operating according to the logic that current residents should determine how their neighborhoods will evolve in the future—also to increase democracy.

Everyone thinks the planning process should be democratic. To act in the name of greater democracy trumps almost all other claims in the public discourse. But it's not at all obvious what this idea really means.

This article explores the question, What is the most democratic way to make planning—meaning transportation and land use—decisions? The hope is to provide a more productive way for people on all sides of San Francisco's "planning wars" to speak to one another about our problems and about how we can make changes.

There are at least three major ways we can make decisions about transportation and land use: the market, experts, and politics. Each of them has important pros and cons. Each of them plays a role in the real world today.

THE MARKET

When transportation and land-use decisions are made through the market, a large number of independent actors are each pursuing their own goals. They don't coordinate with each other. They don't have to build agreement with other people about what to do.

When we say that buildings get built "by the market" we mean that a developer perceives an unmet demand for an "improvement" on a piece of land, and is able to convince investors. Developers compete with each other to attract customers, to convince land owners to sell property to them, and to attract capital.

Individuals decide where to live, shop, play... and the aggregate of these individual choices results in major decisions about how we live on the planet.

Meanwhile, land owners are assessing what to do with property that they own. When they act according to market rationality, they ask the question, Which potential use of this land will bring in the greatest revenue stream? Agriculture? A residential subdivision? An amusement park?

Market forces also operate in transportation. People choose what mode of transportation they will use to go somewhere, whether they will buy a car or share one, whether they will walk to the corner grocery or drive to a supermarket—in all of these decisions, and hundreds like them, people are making individual choices that result in large-scale outcomes for the transportation system.

The market is an extremely efficient way to make transportation and land-use decisions in some senses. It allows people to make life choices according to their own priorities. (Do you prefer to live in a smaller house, with a shorter commute, or in a larger house with a longer commute?) The "overhead," or cost, of administering decisions through the market is usually lower than the other ways of allocating resources,

largely because the price system conveys a great deal of information about what things cost and how much people value them.

On the other hand, markets also have important limitations for making transportation and land use decisions. First is their tendency toward inequality. When scarce resources, such as housing in a good neighborhood, are allocated through the price mechanism, those with the ability to pay the most come out ahead. Since wealth in America is so unequally distributed, these decisions often do not reflect the population's priorities (short commute vs. big house) but simply reflect how much wealth people have.

Another problem concerns the accuracy of the information about costs that are contained in the price system. Prices do a good job reflecting the amount of human effort that goes into creating a car or a house. But they tend to leave out long term environmental costs, which will be borne by future generations. Markets tend to produce inefficient outcomes where these "externalized" costs are large.

Finally, market-based decisions do not ask people to consider the larger consequences of their individual consumer choices. We make isolated decisions about costs and benefits to ourselves.

EXPERTS

The Progressive-era reformers in the early 1900s believed that most major social decisions should be made by experts. The market was viewed as inefficient. Politics was viewed as a corrupt, quasi-feudal system for distributing the spoils of power through patronage.

These are the people who set up housing associations across the country to fight for building and zoning codes. Among them was the San Francisco Housing Association, formed in 1907, the grandfather of SPUR. They also brought civil service systems into government, replacing patronage appointment systems with professionally-trained public servants. Beginning in the 1930s and 1940s, some of the professionally trained public servants were city planners.

Progressives believed that while self-interested capitalists and politicians would make decisions to benefit themselves, technical experts would make decisions according to simple efficiency, safeguarding the public interest against narrow self-interest.

Of course, there is a lot of truth to this idea. Transportation and land-use decisions should be informed by rigorous knowledge of demography, ecology, engineering, architecture, economics, urban design, and other disciplines.

But no one anymore seems to believe that technical experts should be empowered to make major decisions. The paternalism of the "technocratic" model that brought us urban renewal, nuclear power, and traffic engineering has been ruthlessly criticized over the past half century. What had been presented as simply technical work in the public interest turned out to involve subjective values and choices—the designation of winners and losers, the choosing among various possible paths for our society. It has become common sense that these major decisions require public debate, that they should be made democratically, rather than being left to the experts.

City planners received some of the worst criticism. They were, after all, responsible for bringing freeways into urban centers and bulldozing poor (usually minority) neighborhoods under the banner of "urban renewal" to make way for projects that embodied the latest fashions in design. Many of the laws and regulations that now restrict the authority of planners have their roots in the backlash against these policies of the post-War period, personified in public servants like Robert Moses and Justin Herman.

If decision-making by experts suppresses debate about values and social trade-offs, it can also be criticized as being inefficient. When the city planners propose something you don't like, you can always accuse them of "being out of touch with reality." Taken to its extreme form, this argument becomes a defense of the market's protection of individual freedom of choice against the coercive power of planning. A more moderate version of the critique of inefficiency simply acknowledges that it tends to cost a lot and take a long time to make decisions through a planning process led by a public agency.

POLITICS

The third way of making transportation and land use decisions is through the political process. Presumably, when a person says that "planning decisions should be made democratically," he or she means that planning decisions should be made through the political process rather than being left to the market or left to technical experts. But, it's important to understand that there are several different ways that the democratic process works in America today. The pros and cons of making planning decisions through the democratic process will depend on which type of democratic process is invoked:

Representative Democracy

The formal process of electing people to represent us is what many people have in mind when they think about the democratic process. We elect people at the local, state, and national levels who make decisions that impact transportation and land use, although the power to regulate development of land is reserved by the states, which have largely delegated it to local jurisdictions.

In American land-use law, elected legislative bodies are viewed as the most legitimate body to make land use decisions. But elected officials make transportation and land use decisions in hundreds of ways, depending on their jurisdictional level, from the allocation of tax dollars for infrastructure to laws designed to protect the environment.

In San Francisco, one of the themes underlying the battles over planning issues concerns the legitimacy of the formal, representative process, as contrasted to smaller, more neighborhood-based planning processes. While representative democracy does have its drawbacks—lack of representation for the minority of voters who didn't choose the winner, lack of mechanisms for instructing representatives on specific issues—the elections of supervisors and mayors involve far greater numbers of people than those who participate in neighborhood planning processes so that the formal electoral process actually is more representative of the people of the neighborhood. It makes all the sense in the world to argue that the "most democratic" way of making transportation and land use decisions is to elect politicians through a fair election.

Participatory Democracy

There is another type of democracy, which is more involved than the occasional election of representatives: the participatory process of people coming together to debate issues and make decisions together.

The official system of participatory democracy includes commissions of appointed people who make policy; public hearings and debates; and advisory bodies. Probably the ultimate example of participatory democracy in San Francisco planning is the "Better Neighborhoods" planning process that has been underway for the last three years, in which the Planning Department works closely with neighborhood

residents through workshops, walking tours, debates, and all manner of other public participation methods to develop a vision for the future of a neighborhood. Three San Francisco neighborhoods are going through this process now; five other neighborhoods are undergoing a less-intensive version of the same process under the “Eastern Neighborhoods” planning effort.

In contrast to the relatively passive role of being a voter in a system of representative government, participatory democracy involves a much richer experience for the people involved. In classical political theory, democracy was viewed as a core part of the socializing process, a way of building character so that people could become more complete and more developed as human beings. This only makes sense if you think about the democratic process as something that involves high levels of participation—if not speechmaking in the Greek agora, then at least working with your neighbors to develop a neighborhood plan. One of the great benefits of participatory democracy is that it allows decisions to be made through a process of discussion and debate. All the other ways of making decisions lack this deliberative characteristic.

But participatory democracy only works at a small scale. There were fewer citizens in a Greek city-state than in most San Francisco neighborhoods. If you can’t get everyone in a room to talk together, then the process of debate doesn’t work.

There are many positive things that come out of a neighborhood-based planning process: attentiveness to the deeper knowledge of the place that residents might have; the opportunity for debate and dialogue; and, in some cases, the embodiment of the principle that those most affected by a decision should make it.

But there are also serious problems: first, the fact that only a tiny minority of people actually participate in the neighborhood planning process, far fewer residents than those who elect representatives, even with today’s extraordinarily low voter turnout rates, calling into question the legitimacy of the process as a way of expressing the will of the people; and second, the fact that the consequences of decisions at the neighborhood scale are felt at the city and regional scale, so that when transportation and land use decisions are devolved to the neighborhood level, the larger scale issues are obscured.

Direct Democracy

There is another form of democratic decision-making: the direct vote of the people through the referendum (when elected leaders place a measure on the ballot before the voters), the initiative (when a measure is placed on the ballot through the collection of voter signatures), and the recall (when voters collect signatures to place a measure on the ballot that would remove an elected official from office).

Between 1911 and 1978, forty-two initiatives were passed by the voters of California. But since November of 1978, when Proposition 13 passed, the use of the initiative has skyrocketed.

In San Francisco, we have voted on numerous ballot measures each year since 1978. Major ballot box planning measures included Prop M (1985), which instated a new downtown plan, along with growth controls and planning priorities; Prop H (1990) which directed the Port to develop a waterfront plan and forbade the development of hotels on the waterfront; and the dueling Props K and L (2000) which each proposed modifications of Prop M.

The Central Freeway demolition, which was essentially “debated” through several rounds of ballot initiatives, is an example of how two sides can effectively use initiative process to delay an important land use decision for a decade. And the Forty Niners stadium initiative in 1997 is an example of project-

specific zoning that was enacted (at considerable expense to the sponsors) at the ballot, but the project did not get built for a variety of economic and other reasons.



Some people believe that, in principle, major decisions require the people to vote in order to have democratic legitimacy. The initiative process solves the problem inherent in representative government of having one person represent you across all issues, by giving you the opportunity to cast your vote on the specifics.

On the other hand, the initiative process removes all opportunities for compromise that a legislative body can make. When one side puts a measure on the ballot, the side with the most votes can get everything it wants, leaving the minority interest out completely. In this way, direct democracy is inherently unprotective of minority viewpoints.

In addition, the initiative and referendum work best when the citizenry is extremely active and well-informed, which is often not the case today. While the ballot measures can contain lengthy passages of legal text, voters are making decisions based on the title of the measure. Elected representatives, who spend their lives steeped in the policy debates and have staff to assist them, often are in a better position to know what they are voting on. The outcome of a ballot measure is largely determined by the amount of money its backers can spend on the political campaign.

Nevertheless, one of the major trends in planning is the growing use of the initiative and referendum as a way to make transportation and land use decisions.

Partly this is because of the irresistible strategic advantages of direct democracy if your views are consistent with the majority: it offers a way to get everything you want, without having to compromise with the other side. And you can effectively lock your victory into place, because a vote of the people can only be amended or reversed by another vote of the people.

Partly it's because so many people don't trust politicians or civil servants. The initiative process provides a way to write the rules so that politicians and government employees won't do the "wrong" thing. Of course, the ironic outcome of all these initiatives, from ballot box rezoning to mandatory set-asides of the budget to limits on the ability of government to levy taxes, is that the democratic process becomes increasingly confusing and paralyzed.

If participatory democracy is the type that maximizes the opportunity for deliberation, direct democracy is the opposite: it contains the least opportunity for public discussion and debate. But at both the local and state level, the fact is that a large number of decisions impacting transportation and land use are going to be made through this form of the democratic process.

MAKING DEMOCRACY WORK

Somehow, with all this democracy going on—and most of these dynamics also exist in other Bay Area communities—few people are happy with the results. Housing is getting more expensive. Congestion is getting worse. The region continues to sprawl unabated. The major transportation and land use outcomes are often not what most people want, in spite of the fact that there is so much activism and awareness specifically intended to subject transportation and land use decisions to greater democracy.

What Accounts for This Paradox?

It is a truism that a good democratic process is no guarantee of a good outcome. But there are some specific problems, some specific distortions in the democratic process, that are preventing us from making the kind of place we want.

1. We favor those who oppose change.

There is a presumption in many of our decision-making processes that change is bad unless proven otherwise. Those who would benefit from change are often at a disadvantage versus those who oppose change. We all know that existing homeowners benefit at the expense of people who would like to be homeowners—both because Prop. 13 makes long-time home owners pay very little towards the cost of government and because the various laws that limit housing supply drive up housing prices.

But this same dynamic takes place in many other realms. For example, transportation planners know that the single cheapest way to speed up trip time and attract new riders to transit in a city like San Francisco is to eliminate every other bus stop, remove stop signs on the bus route, and other similar things to get the bus from start to finish in a shorter time. There is a clear and overwhelming public benefit to these changes. But opponents against walking an extra block or losing a stop sign can block this proposal from being implemented.

There are dozens of laws and procedures that prevent, shrink, or slow down housing development, but nothing that compels the city to get the housing built. In a sense, we seem to systematically ask the wrong questions.

We ask, do you want a taller building next to you? Not, do you want this community to remain affordable for your children?

We ask, do you want to lose the MUNI stop on your block? Not, do you want to reduce the trip time of this route by a third?

In short, we ask questions geared toward preventing bad things rather than making good things happen. And we ask these questions to those who live there, rather than looking at the changes at the system-wide level.

Solutions

In a broader sense, part of the answer to this distortion in the democratic process may be to revisit the role of the expert in decision-making. We need to create cultural change that revalues technical expertise and invites experts to inform the debate, even if they aren't the ultimate decision-makers.

In some cases, it may make sense to fight the anti-change laws with pro-change laws. For example, what about a "constitutional right" to housing? The presumption would be that housing would be considered a good thing unless proven otherwise. If we had that right in our city Charter, many changes to the planning process might flow from that. Perhaps we might actually have "as-of-right" housing for the first time—meaning that a housing project that complies with all zoning requirements, seeks no variances and does not require a conditional use or other special approval from the Planning Commission is no longer subject to Discretionary Review at the Planning Commission. The building permit for the project would still be appealable to the Board of Appeals, but just removing one level of challenges from the process could speed up the approval of housing projects by six months or more, reduce the cost of processing the permit for the developer, and relieve the Planning Department and Planning Commission from the burden of dealing with an endless parade of appeals of worthy projects that comply with the rules already in place.

2. We favor those who oppose taxes.

Any polity has to weigh the trade-off between higher taxes with greater public services on the one hand, and lower taxes with lower levels of public service on the other. The evidence so far shows that Americans prefer lower taxes with fewer public services.

But in California the anti-tax movement has not only succeeded in voting down tax proposals; it has rewritten the rules of government to give itself permanent veto power against even popular proposals to increase public spending.

Not only do elected representatives no longer have the ability to levy taxes to enable government to work, but a one-third minority of the voters can block any proposal at the ballot to levy a tax. It's next to impossible to get a two-thirds majority to vote for anything, much less a tax increase. This provision of state law is so blatantly un-democratic that one hesitates to even discuss it in an article on the democratic process. But only for a moment.

It cannot be stressed enough how strongly this distortion in the democratic process influences transportation and land use outcomes. It is the reason why our infrastructure is decaying, from schools to transportation. And it has caused land use decisions around the state to be made largely on the basis of what uses will bring in the most taxes and require the smallest expenditures of public dollars. Thus, big-box retail is wanted; schools and housing are not.

Solutions

Unlike the first problem, it is extremely clear how to solve this second one: the tax limits imposed by Props 13, 62, and 218 should be overturned.

3. The scale of the problems is mismatched with the scale of our political institutions.

Our problems are regional, but our planning decision-making is at the city level or even the neighborhood level. Probably the hardest problem to solve is the contradiction between our desire for a small-scale democratic process and our need to solve large-scale problems.

Today, local communities have every incentive to shirk their regional responsibilities and shunt the impacts of their actions onto other jurisdictions. If any one community allows increased housing development, but the other communities continue with the status quo, housing prices are not likely to be affected. In order for smaller cities (and individual urban neighborhoods) to help fix the solve the housing crisis, they must be guaranteed that all the other cities and neighborhoods will do their part too.

Pollution, congestion, sprawl, and more than any other problem, housing costs, are all essentially unsolvable if the democratic process is set up in such a way that local communities are only looking out for themselves.

Today, our democratic institutions are almost completely missing any structures for solving these “tragedy of the commons” dynamics, mitigating spillover effects of one jurisdiction on the others, or forcing local communities to bear their share of regional responsibilities.

The metropolitan area is the U.S. best known for actually addressing its land use and transportation needs is the Portland, Oregon region. One key reason for the Portland region’s success is that both land use planning and transportation planning (and investment) across the entire metropolitan area is guided by one directly elected government, the Metro Council, which coordinates and regulates the 24 individual cities within the region, including central city and suburbs. By contrast, the Bay Area is fragmented into hundreds of distinct jurisdictions, most of which make unilateral land use and transportation decisions without reference to one another.

We know that, at larger scales, deliberative democracy no longer works, so we have to acknowledge that something important is lost when we enlarge the size of the polity. But on the other hand, things aren’t working now either.

Short of a real regional governance structure, there are probably dozens of ways to improve the ability of the existing democratic institutions to address regional problems. Probably the most important element of these solutions is the need to structure in some sort of feedback between the local level and the regional level. To use a simplified example, if the region were able to determine actual, real housing needs that must be met by each city, the cities could democratically decide how and in what configuration they wanted to meet the housing needs. The local democratic process would become much more mature and responsible if it were asked to take account of the regional impacts of local actions.

Everyone is in favor of democracy. But what kind of democracy? All of the decision-making processes have their strengths and weaknesses. This includes the various forms of the political process, as well as the market and the use of expert planners. But in the big picture, things are not going well in the Bay Area. Our decision-making methods are failing us. We need to change them.