



Florida Legislature Must Be Careful Not to Repeat the Errors of Statewide Planning

Samuel R. Staley, Ph.D.

Director, The DeVoe L. Moore Center

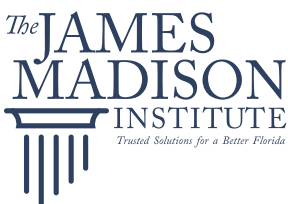
Crystal Taylor, Ph.D.

Director of Research, The DeVoe L. Moore Center

In partnership with

George Gibbs Center for Economic Prosperity

at The James Madison Institute



Introduction

The Florida state legislature has been busy preempting local governments on local land-use and regulatory decisions to allow for the construction of more types of housing in more places.

Over the last decade, the state overrode local jurisdictions on some noteworthy travel and housing issues. Florida passed H.B. 221 in 2017 that established rideshare drivers (e.g. Uber, Lyft drivers) as consultants for transportation network companies.¹ In an effort to promote more housing supply and housing that is more affordable, the Florida legislature passed the Live Local Act (LLA) in 2023, which allowed the state to upzone commercial, industrial, and mixed-use spaces to allow for housing, requiring that at least ten percent is affordable.² The state-mandated “upzoning” can also promote higher densities and mixed uses in certain places, such as transit stops.

Continued Legislative “Fixes” Point to Bigger Problems with Land-Use Planning in Florida

During the 2025 legislative session, the Senate and the House passed S.B. 1730—now awaiting final approval by the governor—to expand the land use scope of the LLA by allowing housing to be built on religious spaces.³ As a reaction to the NIMBY or the Not In My Backyard opponents of developing housing that is affordable, this bill is commonly referred to as YIGBY or Yes In God’s Backyard for proponents of housing affordability and mixed use development on religious spaces.

As a pro-housing policy, the LLA did not specifically address single-family residential zoning in localities, which often limit housing development. Since most parcels of land in local jurisdictions are zoned for single-family residential uses, reform in this area has the potential to have significant impacts. In 2025, the state legislature also proposed S.B. 184, requiring local governments to allow “accessory dwelling units (ADUs),” also known as “granny flats,” in areas of cities zoned for single-family residential uses.⁴ ADUs reform has the potential to significantly increase the number of housing units by reducing red tape for building housing that is affordable right in a homeowner’s backyard.⁵ The bill failed this session due in part to disagreements concerning language on short-term rentals.⁶

S.B. 1080, introduced during the 2025 session, requires local governments to publicly post at least minimum information about zoning applications. The proposed legislation also specifies permitting processing timelines for local governments and provides clarification to local governments claiming extraordinary

circumstances in terms of the timing and procedure for increasing impact fees.⁷

However, these state preemptions are an indicator of a larger problem with local land-use planning in Florida (and across the nation), which itself was a product of overzealous statewide planning. Indeed, these targeted regulatory preemptions may be considered an inevitable byproduct of the state imposing a one-size-fits-all regulatory approach, which began in earnest in the mid-1980s.

Historic Statewide Preemption in Florida Contributed to a Less Resilient Housing Market

Faced with rising public concerns about environmental degradation in the face of rapid population growth, the state enacted a statewide growth management law in 1985. The Growth Management Act (GMA) required Florida’s 301 cities (at the time) and 67 counties to enact jurisdiction-wide land-use and growth management plans. These plans needed to be approved by a state agency, the Department of Community Affairs, to ensure they were consistent with state law and state policy priorities. These priorities included, among others, requiring development to pay for itself through concurrency requirements and reducing urban sprawl. The consequences for housing from these statewide mandates were significant.

When local municipalities and counties first submitted their plans for approval, the state reviewed them for administrative and policy compliance. If they did not conform to the state’s priorities, they were rejected. Among the first submissions, more than half of the plans submitted by municipalities were rejected, and 85 percent of the plans submitted by counties were rejected.⁸ In some cases, municipalities and counties negotiated with the state for several years to become compliant. An early statistical analysis found that as much as 20 percent of housing inflation in Florida could be attributed to the time local governments planned under the new law.⁹ A subsequent study extending the period of analysis to 2007 found smaller but significant results.¹⁰ These results indicate that the implementation of the growth management law significantly reduced housing affordability.¹¹

In 2011, the Florida legislature passed the Community Planning Act, allowing local governments more land-use authority with significantly less state oversight.¹² Land use scholar Evangeline Linkous notes that the Community Planning Act did not end growth management as commonly suggested.¹³ Rather, it diminished the state’s role in local land use decisions.

Florida's Housing Deficit Increases Under State-Mandated Growth Management

Nevertheless, since the GMA was passed in 1985, average annual private residential building permits fell below population growth. The state has been falling into a deficit in housing. Annual residential building permits exceeded the number granted in 1988 just nine times (see chart below) while the state population has steadily increased year-over-year. Not surprisingly, the state was headed toward a crisis in housing availability and, consequently, affordability. The DeVoe L. Moore Center at Florida State University estimates that the state may be facing a shortage of 55,000 units of single-family housing and 66,000 rental units.¹⁴

The critical question, of course, is “Why?”

The ability of the private housing market to respond to rising demand is not limited by knowledge, technical expertise, or even resources. Construction materials were available through a worldwide supply chain, facilitated by U.S. trade policy through the North American Free Trade Agreement (NAFTA) and then the United States-Mexico-Canada trade agreement (USMC). The pandemic of 2020 created significant disruptions in supply chains, and recent tariff policy activity has exacerbated uncertainty around the cost of accessing these resources. But these disruptions have been recent, and Florida's housing market has been in long-term decline relative to population and household growth since the adoption of the GMA.

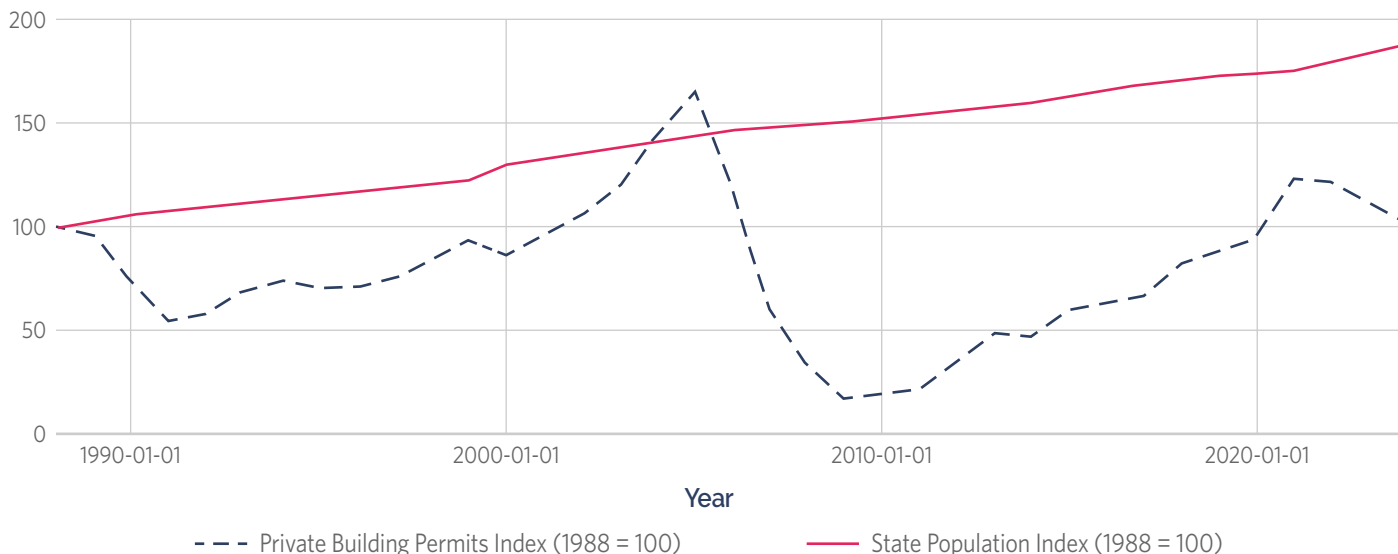
Detailed Land Use Planning Persists at the Local Level

One reason for this housing market decline is that although statewide planning was removed in 2011, the local planning apparatus remained largely intact. Local municipalities and counties continue to draft, pass, and enforce detailed land-use plans. Significant changes to these plans, including “variances,” require going through a lengthy review process.

Typically, a site plan, development project, or request for variance from the existing zoning code is submitted to the local jurisdiction. This request is referred to a planning commission or committee consisting of citizens appointed by the elected county commission or council. The planning commission holds public hearings before voting to accept or reject the proposal. If the private request is approved by the appointed board, it goes to the elected body, which also holds public hearings on the proposal.

Even the most modest plans or development requests can experience delays of six months or a year. Each public hearing and decision point requires a back-and-forth between planners, appointed commissioners, or elected officials. Moreover, if a project requires approval or consent from other agencies, such as a housing authority, the local fire department, or the environmental regulatory agency, delays can easily last years. Profit margins are squeezed, eating away at the economic viability of the project.

Trends in Private Building Permits and State Population Growth



Source: DeVoe L. Moore Center

Pro-Housing Preemptions as a Response

These delays and concerns over the role of anti-growth special interests prompted statewide action and a pro-housing approach to preemption in the early 2020s, beginning with the Live Local Act. These efforts required local governments to accept certain types of development in specific areas zoned as commercial, industrial, or mixed-use. For example, local governments had to require and facilitate higher-density uses and mixed residential and commercial development around transit stations. The state has also substantially increased funding and tax subsidies for residential housing development that is affordable.¹⁵ However, the Live Local Act did not apply to Planned Unit Developments or PUDs, which could potentially create confusion for housing development.

Two bills (S.B. 1730 and S.B. 1080) in the 2025 legislative session push local governments to do more. S.B. 1730 requires local governments to allow multifamily and mixed-use residential development on non-residentially zoned property, including religious spaces.¹⁶ The bill also prohibits local jurisdictions from restrictively regulating these developments on density and “floor area ratios,” imposing unduly restrictive height limitations, using parking regulations to limit development, and other elements intended to prevent local governments from micromanaging project development.

S.B. 1080 attempts to streamline the local government approval process by imposing maximum time limits for considering applications and specifying “minimum information needed” to secure certain types of permits.¹⁷ The bill also specifies what constitutes a “substantive change” to land use based on proposed density and size.

Shifting the Policy Focus of Growth Management

These legislative proposals, while laudable, fail to address underlying structural problems in the regulatory system. State-directed management of local land use planning does little to alleviate the problem of local government micromanagement. Current growth management planning and practice give governments extensive discretion over permitting and approval. Local governments can, and often do, preempt private development by imposing undue delays, costs, and other burdens (e.g., unnecessary and undesirable features) on proposed projects.

One example of how this can play out is through Planned Unit Developments (PUDs). PUDs are a common land use tool used to provide housing in Florida. These projects can be subject to substantial impact fees and extensive design stipulations. As Florida

local governments heavily rely on PUDs as a mechanism to facilitate housing, The Mercatus Center’s Charles Gardner and Jacob Cremer advocate for the inclusion of PUDs in the next update of the Live Local Act so that developers with custom projects can seek administrative approvals rather than engage in a lengthy and therefore costly rezoning process.¹⁸ Since the original Live Local Act did not specify PUDs, local governments can currently plausibly argue PUDs are not covered by the legislation.

Instead, growth management policy should be redirected toward addressing the significant public-interest concerns raised by the proposed project and the impact of the project on the municipality.¹⁹ If the public impacts create little public harm, then projects should be administratively approved. For example, for residential housing projects that tap into existing public sewers without limiting their capacity or contain stormwater run-off within their boundaries, these elements should be administratively approved. Legislative bodies should only be engaged in cases where the project has a significant impact on public service capacity or public welfare. For example, if a proposed housing development could directly create negative health impacts or may pose environmental harm, then a closer examination makes sense as part of a collaborative process amongst stakeholders.

Less focus on land-use type, or conformity to an unrealistic and impractical land-use plan, and more focus on public impacts, could significantly reduce the time required to approve projects while mitigating harms to the public.

One city where this general framework is applied is Houston, Texas.²⁰ Houston is a promising pro-growth case study in the United States as it does not have traditional land-use zoning. Neighborhoods can engage in detailed planning using deed restrictions or covenants, usually through homeowner associations. Rather than focusing on detailed land-use plans and zoning maps, the city regulates development based on its impact on public infrastructures such as roads, sewer, etc. and compliance with building codes.

“Despite having the second largest population among [Texas’s] incredibly fast-growing metros,” writes housing policy analyst Eliza Terziev, “Houston has maintained among the lowest home price appreciation.”

Land-use planning and growth management reform remain necessary. Markets should be “given the flexibility to adjust to mitigate price pressure,” Eliza Terziev continues in her case study. “One way to facilitate rapid responses by developers is to eliminate sweeping barriers to development, like citywide zoning, and issue housing permits at a rate that keeps up with demand.”

Conclusion

Experience with land-use planning in Florida suggests that state-directed planning and growth management are accompanied by significant costs. While the statewide planning apparatus was disassembled under Governor Rick Scott in 2011, the GMA's legacy is still intact through the detailed planning systems and procedures left in place. The cumbersome and complex planning process creates significant uncertainty and transaction costs, slowing down the process for securing rezonings and permit approvals. Thus, one of the GMA's housing legacies is a steady erosion in the residential real-estate market's resilience and a persistent inability to keep up with population growth and the state's changing housing needs.

The Florida legislature has re-focused its efforts on state-directed preemptions of local government land-use plans. A better strategy would be to reframe the entire process of regulating development through a focus on developmental impacts, rather than compliance to state statutes or strict conformance to local land-use plans.

In his book *A City Cannot be a Work of Art: Learning Economics and Social Theory from Jane Jacobs*, economist Sanford Ikeda draws inspiration from Jane Jacobs' foundational writing on urban planning and cities. Ikeda writes: "So a conscientious planner is aware that the beauty of a living city is in the eyes of its inhabitants who behold it on the street, not the planner or designer who wants

to shape the city according to a preconceived image."²¹ This gives us a glimpse into the disconnect that can be found between the lines of well-intentioned, detailed plans aimed to achieve a certain image or aesthetic and the ever-changing necessity for communities to adapt to new needs and desires.

Shifting attention to the impacts rather than the stipulations can help planners to view cities more in the eyes of the inhabitants. The public interest can be protected while providing the private real estate market with more freedom to innovate, invest, and build the housing Floridians desire and demand, and can afford. At the same time, local communities can streamline the development approval process, reduce uncertainty, and create a more robust residential housing market.

Samuel R. Staley, Ph.D. is Director of the DeVoe L. Moore Center in the College of Social Sciences and Public Policy at Florida State University. He is internationally recognized for his work on land-use and growth management, and his academic work has appeared in the *Journal of the American Planning Association*, *Housing Policy Debate*, the *Journal of Urban Development and Planning*, *Town Planning Review*, and others.

Crystal J. Taylor, Ph.D. is Associate Director and Director of Research at the DeVoe L. Moore Center at FSU. Her academic research has appeared in professional journals such as *Cities and Health*, the *Journal of Physical Activity and Health*, and the *Journal of Environmental Health*.

Endnotes

- 1 Florida Legislature, “Transportation Network Companies” H.B. 221. (2017), accessed May 16, 2025 at <https://www.flsenate.gov/Session/Bill/2017/221>.
- 2 Florida Legislature, “Live Local Act” SB 102, (2023, modified by S.B. 328 in 2024), accessed May 16, 2025 at <https://www.flsenate.gov/Session/Bill/2023/102>.
- 3 Florida Legislature, “Affordable Housing: S.B. 1730, (2025), accessed May 20, 2025 at <https://www.flhouse.gov/Sections/Bills/billsdetail.aspx?BillId=82209&SessionId=105>
- 4 Florida Legislature, “Housing” S.B. 184. (2025, Bill was Postponed/Withdrawn from consideration), accessed May 20, 2025 at <https://www.flsenate.gov/Session/Bill/2025/184>
- 5 Jami Holder, “Granny flats bill a great way to cut red tape, boost Florida’s affordable housing stock” Red Tape Florida, May 2025, accessed May 20, 2025 at <https://redtapeflorida.com/florida/granny-flats-bill-a-great-way-to-cut-red-tape-boost-floridas-affordable-housing-stock/>
- 6 American Planning Association Florida, “May 20, 2025 Legislative Reporter,” accessed May 20, 2025 at https://issuu.com/apa_florida/docs/legislative_reporter_may_13?fr=sNDY5MDgzNTYyNjg
- 7 Florida Legislature, “Local Government Land Regulation” S.B. 1080 (2025), accessed May 20, 2025, at <https://www.flsenate.gov/Session/Bill/2025/1080>
- 8 Leonard C. Gilroy, Samuel R. Staley, and Sara Stedron, “Statewide Growth Management and Housing Affordability in Florida,” *Backgrounder No. 53*, James Madison Institute, October 2007, p. 14.
- 9 Samuel R. Staley and Leonard C. Gilroy, “Smart Growth and Housing Affordability: Evidence from Statewide Growth Management Laws,” Policy Report No. 2827, Reason Foundation, December 2001.
- 10 Leonard C. Gilroy, Samuel R. Staley, and Sara Stedron, “Statewide Growth Management and Housing Affordability in Florida,” *Backgrounder No. 53*, James Madison Institute, October 2007, p. 14.
- 11 Jerry Anthony, “The effects of Florida’s growth management act on housing affordability,” *Journal of the American Planning Association*; 2003; vol. 69, no. 3; pp. 282-295.
- 12 Florida Legislature “Growth Management” H.B. 7207 (2011) accessed May 20, 2025 at <https://www.flsenate.gov/Session/Bill/2011/7207>

Endnotes (Cont.)

- 13 Evangeline Linkous “The Dismantling of Growth Management in Florida?: The Consistency Mandate, Policy Change, and Institutional Realignment” *Journal of Planning History*; 2022; vol. 22; no. 4; <https://doi-org.proxy.lib.fsu.edu/10.1177/15385132221082652>
- 14 Samuel Staley, Crystal Taylor, Vittorio Nastasi, and Doug Wheeler, “Reforming Land Use Planning is Critical to Meeting Florida Housing Needs,” Policy Brief, April 2025, <https://jamesmadison.org/reforming-local-land-use-planning-is-critical-to-meeting-florida-housing-needs/>
- 15 Eliza Terziev, “Missing Middle Housing Policies Balance Interests While Addressing Affordable Housing Crisis,” Reason Foundation, November 4, 2024, last accessed online May 11, 2025, <https://reason.org/commentary/missing-middle-housing-policies-balance-interests-while-addressing-the-affordable-housing-crisis/>
- 16 Florida Legislature, “Affordable Housing: S.B. 1730, (2025), accessed May 20, 2025 at <https://www.flhouse.gov/Sections/Bills/billsdetail.aspx?BillId=82209&SessionId=105>
- 17 Florida Legislature, “Local Government Land Regulation” S.B. 1080 (2025), accessed May 20, 2025, at <https://www.flsenate.gov/Session/Bill/2025/1080>
- 18 Charles Gardner and Jacob Cremer, “How to Streamline Housing Permitting in Florida: How to deliver land use reform in the state-three key policy recommendations,” Mercatus Center, December 3, 2024, accessed May 21, 2025 at <https://www.mercatus.org/research/policy-briefs/how-streamline-housing-permitting-florida>
- 19 This framework is more fully developed in Samuel R. Staley and Eric Claeys, “Is the Future of Development Regulation Based in Its Past? Toward a Market-Oriented, Innovation Friendly Framework,” *Journal of Urban Planning and Development*, Vol. 131, No. 4 (2005), last accessed only May 11, 2025, <https://ascelibrary.org/doi/abs/10.1061/%28ASCE%290733-9488%282005%29131%3A4%28202%29>
- 20 Eliza Terziev, “Houston’s Housing Success Is a Model for Other Cities,” Reason Foundation, March 8, 2025, last accessed online May 11, 2025, <https://reason.org/commentary/houstons-housing-success-a-model-for-cities/>
- 21 Sanford Ikeda, *A City Cannot Be a Work of Art: Learning Economics and Social Theory from Jane Jacobs* (Springer Nature Singapore Pte Ltd. 2024), p. 230. Open access book available at <https://link.springer.com/book/10.1007/978-981-99-5362-2>



- ✉ The James Madison Institute
The Columns
100 North Duval Street
Tallahassee, FL 32301
- ☎ 850.386.3131
- 💻 www.jamesmadison.org

Stay Connected

- 📘 The James Madison Institute
- 🐦 @JmsMadisonInst
- ▶ youtube.com/user/JamesMadisonInstitut
- 📷 flickr.com/photos/jmsmadisoninst
- 📌 pinterest.com/jmsmadisoninst