As set forth in the prologue, the concept of market demand–based planning and permitting (MDBPP) is that new real estate development should be approved only if those seeking to develop can establish that there is sufficient market demand for the development they propose. The origins of our concept lie in the Great Recession of 2007–2009 from which the American economy struggled to recover through most of the next decade.

Business cycles are not new to the United States—or to other nations for that matter. Following past recessions, projected incomes and spending returned to anticipated levels in a relatively short time and often eventually rose above those original levels. In evaluating the legitimate role of growth management during economic malaises, it is important to remember that economic recessions and periods of slow performance are normal events.2

Since 1945, there have been eleven officially designated recessions or about one recession every six years. Recessions, however, do not follow a fixed pattern. Since 1945, the shortest time between the end

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1 Major portions of this chapter are taken, with permission, from Julian C. Juergensmeyer & James C. Nicholas, Loving Growth Management in the Time of Recession, 42/43 Urb. Law. 417 (2011).

2 See Chapter 5.
of one recession and the beginning of another was one year—one ending in July 1980 and the next beginning in July 1981. The longest stretch between recessions was nine years, from March 1991 to March 2000. The most recent recession began six years after the end of the previous one, exactly on the average. The 2007–2009 recession was the longest postwar downturn, at eighteen months, but it was not the most severe. The 1981–1982 recession saw the unemployment rate peak at 10.8 percent, as contrasted with 10.6 percent for 2007–2009. Still, these postwar recessions pale when contrasted with the Great Depression, which lasted one hundred seven months (eight years, eleven months) and saw unemployment rise to 25 percent.

Even though recessions are common, there have been only three in the past twenty years, two of which were short and relatively mild. This has resulted in an expectation of continuous prosperity, and many have simply forgotten the reality of recessions. Local governments and planners have also forgotten, in many instances, the need to incorporate recessions into growth-management planning.

Recessions are general contractions of economic activity, but the most commonly noted characteristic of a recession is an increase in the unemployment rate. The pattern of rising and falling unemployment rates is very apparent when plotted with periods of recession. Periods of contraction see rapid rises in unemployment; the subsequent recovery and expansion sees unemployment fall. The rate at which unemployment falls is generally a measure of the strength of the economic recovery. By this measure, the recovery that began in 2010 is weak.

What makes the 2007–2009 recession different is what happened before the onset: Housing was constructed at rates well above what the market demanded. The average absorption of new housing units runs 1.5 million per year. Prior to the 2007 downturn, privately owned housing starts were as high as 2.1 million per year. Between 2004 and 2007, housing starts averaged about 2 million per year. During this period, nearly an extra 2 million dwelling units were built beyond the average 1.5 million per year. The construction of these excess units was financed by irresponsible means and a larger portion than normal were sold to people with no means or intent to pay for the units.\(^3\) The result was the financial catastrophe that we have seen. Many of the 2 million surplus units were never sold and remain in inventory even

\(^3\) See Chapters 3, 4, and 5.
today. A large number that had been sold were returned to the inventory through abandonment or foreclosure.

One might note the coincidence between housing starts and the business cycle. Recessions typically commence with overbuilding, followed by a decline in housing starts. General economic recovery typically coincides with a recovery of housing starts. The weakness of the post-2010 recovery may be partially due to a continuation of extraordinarily low housing starts through 2015, which in turn was due to the excessive inventory of unsold units. This would suggest that a robust recovery of the economy may be waiting on absorption of the unsold inventory and the return to a normal pace of housing starts.

Despite all of the hardships associated with the 2007–2009 recession, the economy has mostly recovered and the Great Recession will become an increasingly distant though painful memory. But what lessons have been learned? Perhaps the biggest is that overproduction of any good, especially housing, is an economic mistake that affects far more than just the suppliers who are unable to sell their products and the banks that financed them. The resulting home price decreases that resulted from oversupply of housing affect the neighbors of those homes and the local governments that look to property taxes for their revenues. The long-term unemployment of construction and allied workers was devastating to the workers and their families, not to mention the cost to taxpayers of extended unemployment compensation. Perhaps the greatest cost was that to the public of “bailing out” America’s financial institutions because, in a famous confession by former Federal Reserve Board Chair Alan Greenspan, paraphrased bluntly by us, the self-interests of financial organizations are incapable of protecting America’s economy.4

Prior to this recession, the prevailing thought was that the growth management regulatory system should be confined to matters of environmental impact and infrastructure availability, that matters of market were private and only the developers, builders, and financers were at risk. The recession of 2007–2009 demonstrated that this thought is simply wrong. The public sector, at all levels, was left to pick up the pieces and pay the costs of this “excessive exuberance.” Following the old adage He who pays the piper calls the tune, should not the public, which suffers the pains and pays the costs, have something to say about the pace at which new development occurs?

4 See Chapters 3 and 4.