

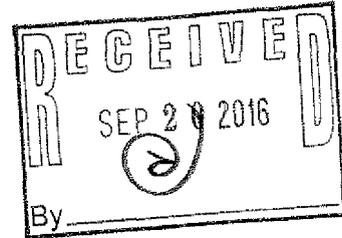
WE SAW



#15, #16

September 18, 2016

VIA HAND DELIVERY
Los Angeles City Council
200 North Spring Street, Room 350
Los Angeles, CA 90012



Re: Objections to a General Plan Amendment, Zone Change, Height District Change, Vesting Zone Change, Conditional Use Permits including Master Conditional Use for Alcoholic Beverages and Conditional Use Permit for Live Entertainment, Site Plan Review, Vesting Tentative Tract Map and Zone Variance for the Project located at 12101 West Olympic Boulevard
CPC-2015-4455-DA
ENV-2012-3063-EIR

Dear Honorable Committee Members:

I. Introduction¹

The West Sawtelle Homeowners Association (“WeSaw”) represents over 200 single-family residence owners in the residential area immediately north to the proposed project, bounded by Bundy to the east, Centinela to the West, Nebraska to the South and Ohio to the north. We live in an area of significant nearby development where infrastructure has been unable to keep pace with new demands being made. This appeal is filed by and on behalf of WeSaw and their members and stakeholders living, working or owning property within these areas.

We appeal every issue previously raised by our and other organizations and our representatives that has not been adequately addressed in the Determination Letters, Conditions of Approval and Findings. We also wish to incorporate all our past statements, testimony and correspondence to be part of this appeal. WESAW adopts and incorporates by reference all Project objections raised by themselves and others during the environmental review and land use entitlement processes before the City of Los Angeles, including Tuesday’s hearing before the City Council.

1. We identified a General Plan Amendment Project in Hollywood so similar to the Project in this case, that we adopt those arguments as our own and incorporate them into this objection letter. We give proper attribution to the Silverstein Law Firm of Pasadena California. The Silverstein firm researched and developed these arguments and evidence in other cases in other parts of the City. While these cases may vary in some details, there are identical in the use of a General Plan Amendment to wipe out the applicable general plan and zoning to substitute a project of astonishing density, bulk, and height—all to the detriment of our City.

II. THE POLICY IMPLICATIONS OF THE PROJECT ARE ALARMING TO ANYONE WHO EXPECTS GOVERNMENT TO CONFORM ITS ACTIONS WITH DUTIES IMPOSED BY LAW.

The entire Project concept should never have emerged from the first meeting with a City Planner – and yet it did. Planning, as that profession is known around the world, is dead in Los Angeles. Now the City processes developer requests without real planning.

As set forth herein in detail, the Project violates fundamental concepts of planning. For instance, the existing zoning for site is M2-1 with a general plan land use designation of Light Manufacturing. The Applicant seeks to change the zoning to C2-D2 and amend the General Plan land use designation to General Commercial. This will cause other properties to seek a similar zone changes and the city would lose a substantial amount of their Light Manufacturing zoned land. This is complete contradiction to the West Los Angeles Community Plan and will result in a long-term loss of revenue for the city. The developer also proposes a project with 3.9:1 FAR in an area plagued by intersections operating at ‘E’ and ‘F’ levels. Yet now when a developer desires to develop this property, a grotesque proposal to wipe away zoning restrictions enacted for the specific purpose of protecting the property and quality of life interests of adjoining owners and tenants has been dutifully approved by the City Planning Director and the Planning Commission without any concern or regard for the rights of those who live immediately adjacent. This is a stunning dereliction of duty by public officials.

Parcel-by-parcel general plan amendments are outlawed by the City’s Charter, yet this express limitation on City powers is ignored as if it does not exist. The ban on parcel-based general plan amendments was adopted to enforce a requirement that the City plan comprehensively, and to end the pernicious practice of Councilmembers swapping the increased land value from parcel-based general plan amendments for campaign contributions, non-profit donations, and even bribes. The Development Agreement associated with the Project has a “public benefits” program that looks more like a laundry list of money payments to buy the silence of potential project opponents or the enthusiastic support of shills. For example, the Development Agreement from Councilman Mike Bonin dated September 8, 2016, requires the developer contribute “\$200,000 to one or more local social service agencies for veterans’ homelessness programs.”

Former City Planning Commission President Jane Usher, who spearheaded the project design principles that became “Let’s Do Real Planning,” famously observed during the Planning Commission hearing on December 13, 2007: “It’s an instance where an applicant asks for the sun, the moon and the stars in a zone where there’s no hint or whisper of it being an appropriate request.”² The 12101 West Olympic Boulevard Project is similarly outrageous, but orders of magnitude greater and to the extreme detriment of the surrounding residential community that was protected from harm by the City zoning—until it wasn’t.

III. THE PROJECT PROPOSES THAT THE CITY COUNCIL VIOLATE THE CITY CHARTER PROHIBITION OF PIECEMEAL AMENDMENTS OF THE CITY GENERAL PLAN TO ENABLE THIS PROJECT.

The Developer proposes 516 residential units (508,200 sq. ft), 99,000 sq. ft of retail floor area, and 150,000 sq. ft of creative office floor area. The developer proposes a 10 story, 160 ft tower and 4 buildings with 6 floors of residential over a retail podium. The tower and the residential/retail buildings will be visible from our single family neighborhood.

Among several entitlements requested by the Project, the applicant requests:

- I. Pursuant to Los Angeles Municipal Code Section 11.5.6, a General Plan Amendment to the West Los Angeles Community Plan to change the land use designation from ‘Light Industrial’ to ‘Community Commercial’ and to amend Footnote No.1 to add an additional exception to permit Height District 2 for the property on Tract P M 4059, Lot C, Map Reference BK 103-51/52 (the project site).
- III. Pursuant to Section 12.32-Q, a Vesting Zone Change and Height District Change from M2-1 to (T)(Q)C2-2D with a proposed D Limitation of 4.0:1 FAR.
- V. Pursuant to LAMC 12.24-U,14, a Conditional Use Permit for a Major Development Project for the addition of more than 100,000 square feet of non-residential floor area.
- VII. Pursuant to LAMC 12.24-W,49, a Conditional Use to permit 13 unmanned Wireless Telecommunications Facilities (WTF).
- IX. Pursuant to LAMC 12.24-W,1 a Master Conditional Use to permit the sale and dispensing of alcohol for 5 on-site sales in conjunction with either 1) 5 restaurants or 2) 4 restaurants and a standalone bar and 3 off-site sales in conjunction with three establishments.
- XI. Pursuant to LAMC 12.24-W,18, a Conditional Use for Live Entertainment to allow dancing, live music, and/or karaoke in conjunction with three establishments.
- XIII. Pursuant to LAMC 16.05, a Site Plan Review, which creates, or results in an increase of 50 or more dwelling units.

2. City Planning Commission Hearing, Los Angeles City Council Planning and Land Use Management August 9, 2016 Page 3 <http://planning.lacity.org/InternetCalendar/pdf.aspx?Id=43395> Hearing Tape 2, at 44:33, incorporated herein by this reference.

XV. Pursuant to LAMC 12.27, a Zone Variance from 12.14-AB.3 to allow outdoor sales (including kiosks) in the C2 Zone.

XVII. Pursuant to LAMC 12.24-Y, a Special Permission for a Reduction of Off-Street Parking Spaces to allow for a 10 percent reduction in the required number of parking spaces for a commercial building not more than 1,000 feet from a fixed transit station (Exposition and Bundy Station, Exposition Line)

Under the current general plan land use designation and zoning rules, there is “no hint or whisper” the Project is an appropriate request. This Project is extremely close to the Bundy on- and off-ramps to the U.S. 10 Santa Monica Freeway and to the I 405 . Rather than being a transit-oriented area, this is an automobile oriented area. This Project will generate 7000 additional daily car trips and it not appropriate for any transit oriented incentives.

The West Los Angeles Community Plan calls for the retention of existing industrial uses. A conclusion of consistency with this objective cannot be supported since the Applicant is requesting a zone change from M2-1 to C2-2D, thereby removing, rather than retaining, an industrial use. The Community Plan Objective 3-3 is not supported by substantial evidence because the Applicant proposes to remove any potential for industrial use.

The West Los Angeles Community Plan Objective 1-2 calls for the *reduction* of vehicular trips and congestion by the development of new housing in proximity to adequate services and facilities. The Project cannot be found to comply with this Objective because it results in an increase of 7000 net new daily traffic trips. Therefore a conclusion of consistency with Objective 1-2 cannot be supported. The Applicant is also requesting a Conditional Use Permit for Live Entertainment/dancing, which will result in the increase of vehicular trips, not decrease, and is therefore not consistent with Objective 1-2.

The West Los Angeles Community Plan Objective 2-2 calls for promoting pedestrian-oriented areas. A recent Op-Ed piece in the Los Angeles Times had the headline ‘Dangerous Streets are the leading cause of death of our children. It’s time to make L.A. walkable.’³ The piece notes that children walking to school and elderly pedestrians are disproportionately victims of traffic accidents. A project that will significantly impact 14 intersections, growing to 16 by the year 2030, will not promote pedestrian activity and in fact will make it more dangerous for the residents of WESAW to access the metro stop located south of the Project. It will make it more dangerous for our children and elderly to walk, as noted in many letters to the Councilman in the Council File.

None of the entitlements listed above are lawful requests because they require the City to initiate and process a General Plan Amendment for an individual parcel or parcels associated with a single real estate development project.

3. <http://www.latimes.com/opinion/livable-city/la-oe-podemski-walkable-city-20160912-snap-story.html>

A. The City Charter And LAMC Bar This Project From Seeking A General Plan Amendment.

Los Angeles City Charter Section 555 expressly prohibits the City from proposing, considering, or approving any general plan amendment that does not encompass a geographical area with “significant social, economic, or physical identity.” The entire Project as conceived and applied for is a clear violation of Section 555 because it assumes that the general plan amendment as requested by the applicant for a single real estate development project, can be granted by the City. It cannot. Because so much rides on the General Plan Amendment, the Project’s house of cards falls.

“In the case of a charter city, “the charter represents the supreme law of the City, subject only to conflicting provisions in the federal and state Constitutions and to preemptive state law. [Citation.] “[T]he charter operates ... as an instrument of *limitation* and *restriction* on the exercise of power over all municipal affairs which the city is assumed to possess...’ [Citations.]” (Domar Electric, Inc. v. City of Los Angeles (1994) 9 Cal.4th 161, 170, 36 Cal.Rptr.2d 521, 885 P.2d 934 (Domar), italics added.) “[I]t is well settled that a charter city may not act in conflict with its charter. [Citations.] Any act that is violative of or not in compliance with the charter is void. [Citation.]” (Id. at p. 171, 36 Cal.Rptr.2d 521, 885 P.2d 934.) The provisions of the city's charter thus “supersede all municipal laws, ordinances, rules or regulations inconsistent therewith” (Stuart v. Civil Service Com. (1985) 174 Cal.App.3d 201, 206, 219 Cal.Rptr. 770) and “an ordinance [or resolution] violative of or not in compliance with the city charter is void.” (5 McQuillin Municipal Corporations (3d ed. 2011) § 15:17.)” San Diego City Firefighters, Local 145, AFL-CIO v. Board of Admin. of San Diego City Employees’ Retirement System (2012) 206 Cal.App.4th 594, 608.

As conceded by the applicant and City in the Draft EIR, the applicant seeks to amend the West Los Angeles Community Plan to designate the entire project site at a higher density, higher Floor Area Ratio, and higher height than currently permitted by the Community Plan. But Charter Section 555 does not authorize an individual property owner to apply for a general plan amendment to enable rezoning like this. For such a small bit or piece of the City, the Charter bars a general plan amendment because the geographical area involved lacks a “significant social, economic, or physical identity.”

The Mayor, the City Planning Commission, the City Planning Director, and the City Attorney suffer from a misperception of the law that has gone on in this City for too long. They act as though they may engage in spot general amendment planning, so as to clear the way for a spot zoning, to give to favored development interests what an average resident of this City could not dream of requesting—an individually-tailored amendment of the long-term, comprehensive plan for how the City’s growth is to proceed for their project.

Even more concerning for City residents is the fact that for a number of years, someone at City Hall began to allow developers to apply for general plan amendments, zoning changes, and removal of height limits to accomplish what the City Charter does not allow: a parcel-by-parcel increase in land use density, up-zoning, and removal of height limits outside of a comprehensive planning process embodied in a holistic review of: (1) the entire general plan, (2) an entire element, or (3) a geographic area encompassing a “significant social, economic, or physical identity.”

With increasing frequency, the Mayor, City Planning Commission, the City Planning Director, and the City Attorney have dismantled the concept of a general plan by amending our City’s community plans bit-by-bit and piece-by-piece.

The plain language of the Los Angeles City Charter prohibits two things:

1. A landowner has no authority under City Charter Section 555 to request a general plan amendment to allow a project that would otherwise violate the current general plan. By the express language of Section 555, subdivision (b), a general plan amendment may only be requested as follows: **“The Council, the City Planning Commission or the Director of Planning may propose amendments to the General Plan.”** (Emphasis added.)
2. Even more significantly, Charter Section 555, subdivision (a), expressly limits amendments of the general plan as follows: **“The General Plan may be amended in its entirety, by subject elements or parts of subject elements, or by geographic areas, provided that the part or area involved has significant social, economic or physical identity.”** (Emphasis added.)

These restrictions on the powers of the Mayor, City Planning Commission and City Planning Director were imposed by vote of the People, exercising their home rule powers, so that the City’s General Plan would retain its force and integrity to guide the long-term and comprehensive development of the City. It specifically bans what the City and Project developer here seek to accomplish.

Los Angeles Municipal Code Section 11.5.6 contains provisions that implement the City Charter procedures for the general plan. With respect to who may request a general plan amendment and the required minimum scope of a general plan amendment, the LAMC repeats the limitations imposed by Charter Section 555:

“SEC. 11.5.6. GENERAL PLAN. Pursuant to Charter Section 555, the City’s comprehensive General Plan may be adopted, and amended from time to time, either as a whole, by complete subject elements, by geographic areas or by portions of elements or areas, provided that any area or portion of an area has significant social, economic or physical identity.

A. Amendments. Amendments to the General Plan of the City shall be initiated, prepared and acted upon in accordance with the procedures set forth in Charter Section 555 and this section.

B. Initiation of Plan Amendment. As provided in Charter Section 555, an amendment to the General Plan may be initiated by the Council, the City Planning Commission or the Director of Planning, Initiations by the Council or City Planning Commission shall be by majority vote. If an amendment is initiated by the Council or City Planning Commission, then it shall be transmitted to the Director for report and recommendation to the City Planning Commission. Whether initiated by the Director, the Council or the City Planning Commission, the Director shall prepare the amendment and a report recommending action by the City Planning Commission. The report shall contain an explanation of the reasons for the action recommended. After the Director prepares a Plan amendment and report, the Director shall transmit the file to the City Planning Commission for its action.” (Emphasis added.)

Nowhere does the City Charter or the implementing LAMC provisions authorize the City to accept a Master Land Use Permit Application that includes a request by an applicant for a general plan amendment in relation to his or her parcel or parcels of land associated with a real estate development project.

In contrast, both the City Charter and the applicable LAMC provisions contemplate that in certain circumstances, an applicant may file an application for a zone change applicable to his or her property, if it is consistent with the currently adopted General Plan. Charter Section 558 provides in relevant part:

“(a) The requirements of this section shall apply to the adoption, amendment or repeal of ordinances, orders or resolutions by the Council concerning:

“(1) the creation or change of any zones or districts for the purpose of regulating the use of land;

“(2) **zoning or other land use regulations** concerning permissible uses, height, density, bulk, location or use of buildings or structures, size of yards, open space, setbacks, building line requirements, and other similar requirements, including specific plan ordinances

“(b) Procedures for the adoption, amendment or repeal of ordinances, orders or resolutions described in subsection (a) shall be prescribed by ordinance, subject to the following limitations:

(1) **Initiation.** An ordinance, order or resolution may be proposed by the Council, the City Planning Commission, or Director of Planning or **by application of the owner of the affected property if authorized by ordinance.**

(2) **Recommendation of the City Planning Commission.** After initiation, the proposed ordinance, order or resolution shall be referred to the City Planning Commission for its report and recommendation regarding **the relation of the proposed ordinance, order or resolution to the General Plan** and, in the case of proposed zoning regulations, whether adoption of the proposed ordinance, order or resolution will be in conformity with public necessity, convenience, general welfare and good zoning practice.” (Emphasis added.)

Thus, while the City Charter contemplates an applicant requesting a zone change that is consistent with the currently adopted general plan, it does not contemplate or authorize an owner of property to propose a piecemeal amendment of the general plan.

It is particularly significant that City Charter Section 555 contains no express language authorizing a land owner to initiate a general plan amendment by application, but Section 558 contains express language authorizing a land owner to initiate a zone change by application if authorized by ordinance. The inclusion of an owner initiated zone change in Section 558 while no similar language appears in Section 555 with respect to a general plan amendment is strong evidence of the People’s intent to ban an owner from initiating a general plan amendment for his property by asking for it in an application.

LAMC Section 12.32 implements Charter Section 558. In relevant part it provides:

“A. Initiation. **The City Council, the City Planning Commission or the Director of Planning may initiate consideration of a proposed land use ordinance.**

Any initiation by the Council or the City Planning Commission shall be by majority vote. The Council or the City Planning Commission shall forward the proposed ordinance to the Director of Planning for a report and recommendation.

B. Application. **An owner of property may apply for a proposed land use ordinance if authorized to do so by Subsections F through S relative to that owner’s property.** The applicant shall complete the application for that proposed land use ordinance, pay the required fee and file the application with the Department of City Planning on a form provided by the Department.” (Emphasis added.)

The language used by the People in the City Charter and the City Council in its implementing ordinances demonstrates that while an applicant might file an application on the City’s Master Land Use Permit Application Form for a zoning change that meets certain criteria set forth in the LAMC (and is of course consistent with the currently adopted general plan), there is no authority for the City even to accept for filing a Master Land Use Permit Application Form that includes an applicant-initiated general plan amendment.

Despite the unambiguous limitation on who may apply for a general plan amendment, the City’s Planning Department began not only allowing applicants to apply for a general plan amendment so they could develop their property contrary to the City’s adopted general plan, but the City Planning Director has instituted a formal policy of accepting general plan amendment applications from applicants. Then, after a review, the Director uses his own power under the City’s Charter to initiate parcel-by-parcel general plan amendments on behalf of applicants. There is no authority granted in the City Charter that allows the City Planning Director to do this – and to do so is completely inconsistent with the state law requiring cities and counties, including chartered cities, to engaged in comprehensive planning .

The City Planning Director has devised procedural memoranda and general plan initiation forms to carry out this process. However, the City Planning Director’s memorandum to consultants and developers dated April 8, 2015 evidences no assessment of whether or not an applicant’s general plan amendment request covers a geographical area that has a significant social, economic, or physical identity, as required by the City Charter. (Exhibit 1 [Planning Director April 8, 2015 Memo, “General Plan Amendment Initiations, Requests to the Director of Planning”].)

In fact, the City Planning Director has implemented an Orwellian wording on forms he requires applicants to sign as a condition of having the City Planning Director “initiate” a general plan amendment. For example, as shown in Exhibit 2, “Request for Initiation of an Amendment to the City’s General Plan,” the “Initiation Request and Time Extension Authorization” attached thereto admits:

“By law only the City may initiate a Plan Amendment. Your application is technically for a Zone Change only. Therefore you must request that the City initiate the corresponding Plan Amendment by checking the box below: I hereby request that the City Planning Commission initiate a Plan Amendment consistent with my requested zone change.” (Exhibit 2, emphasis added.)

In other words, the City of Los Angeles Planning Commission and Director have forms stating that what they are doing is amending the General Plan to make it “consistent with my zone change.” Such reverse engineering of the City’s fundamental planning document is facially unlawful. This reality was first pointed out to the City in a project objection letter more than a year ago and still the City Planning Director and his staff continue to defy the City Charter prohibition of piecemeal general plan amendments in reality initiated by the land owner in his application.

Regardless of the form of the transaction, the substance is that the property owner “initiates” the general plan amendment by asking for a zone change that is inconsistent with the currently adopted General Plan. In other cities, real estate developers would not dream of proposing such a thing. But Los Angeles is different in its violation of the integrity of the General Plan process enacted by its voters in 1969. The City Planning Commission and/or City Planning Director then act as if the whole idea to initiate for this particular property at this particular time was the City’s and not the property owner’s as it states in his Master Land Use Application. Our City’s Charter may not be so easily defeated by such an obvious contrivance.

The Martin Expo Project applicant filed a Master Land Use Permit Application Form “requesting” a general plan amendment. In no way does the Project site constitute a geographical area that meets the limitation or restriction imposed by the People on the frequency and scope of general plan amendments. The City’s pattern and practice is unlawful, and its use in the instant case illustrates how developers are permitted to violate the law by densifying individual parcels beyond that permitted by the General Plan or ever analyzed in the EIRs originally used to approve the General Plan.

The City Planning Director himself also has no authority to propose a general plan amendment as is sought herein. The language contained in the City Charter prohibits the processing of a general plan amendment unless such proposal involves the entire General Plan, an entire Element, a significant part of an Element, or a geographical area so long as the Element part or geographical area constitutes a “significant social, economic, or physical identity.”

Yet for some time the City Planning Director and City Planning Commission have engaged in changing General Plan land use designations at the mere request of a developer. It has become an accepted assumption that almost any proposed project in Los Angeles can happen because a developer wants it, regardless of the general plan land use designation. In no way is this comprehensive planning as contemplated by California law – it is serial spot zoning.

B. The Current Process Undermines Any Integrity In The Comprehensive General Plan And Feeds The Public's Anger And Cynicism.

Former City Planning Director Gail Goldberg famously observed on her arrival at the City:

“In every city in this country, the zone on the land establishes the value of the land. In Los Angeles, that’s not true. The value of the land is not based on what the zone says It’s based on what [the] developer believes he can change the zone to. This is disastrous for the city. Disastrous. Zoning has to mean something in this city.” (Exhibit 3 [LA Weekly article “Density Hawks”].)

Ms. Goldberg’s efforts to change this culture of easy amendment of general plans and zoning failed. She was pushed out in a short time. Mayor Antonio Villaraigosa appointed former Zoning Administrator Michael LoGrande who, unfortunately, carried forward the violations of the City Charter outlined herein. Apparently, the City’s new Planning Director, Vince Bertoni, will continue to allow this open and brazen violation of law as he has remained silent since his appointment to replace Mr. LoGrande.

Several new proposed ordinances recently submitted for City Council approval (Master Planned Development Zone Ordinance and Hybrid Industrial Zone Ordinance) directly conflicted with the City Charter by including language that if an applicant’s project proposal does not comply with the currently adopted general plan, a plan amendment will be processed to make the City’s General Plan “consistent” with the developer’s proposed project – in effect an improperly guaranteed, reverse-engineered outcome. City Council recently approved the Hybrid Industrial Zone Ordinance.

Gail Goldberg’s disaster is unfolding before our eyes.

The California Supreme Court has acknowledged that since 1972, a city’s general plan is a constitution for future real estate development and all plans, codes, and planning decisions **are subordinate to and must conform with the general plan**. In DeVita v. County of Napa (1995) 9 Cal.4th 763, 772-773, the Supreme Court explained:

“Although California law has prescribed that cities and counties adopt general or master plans since 1927 (Stats. 1927, ch. 874, pp. 1899-1913), the general plan prior to 1972 has been characterized as merely an ‘interesting study,’ and no law required local land use decisions to follow the general plan’s dictates. (City of Santa Ana v. City of Garden Grove (1979) 100 Cal.App.3d 521, 532 [].) In 1971 several legislative changes were made to significantly alter the status of the general plan. For the first time, proposed subdivisions and their improvements were required to be consistent with the general plan (Gov. Code, § 66473.5 [formerly in Bus. & Prof. Code, § 11526]), as were zoning ordinances (Gov. Code, § 65860). (Stats. 1971, ch. 1446, §§ 2, 12, pp. 2853, 2858; City of Santa Ana, *supra*, 100 Cal.App.3d at p. 532.) Moreover, charter cities were no longer completely exempted from the requirements of the planning law; these cities had to at least adopt general plans with the required mandatory elements. (Gov. Code, § 65700, subd. (a); Stats. 1971, ch. 1803, § 2, p. 3904.) Thus after 1971 the general plan truly became, and today remains, a “constitution’ for future development’ (Leshar Communications, Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531, 540 [] [] located at the top of ‘the hierarchy of local government law regulating land use’ (Neighborhood Action Group v. County of Calaveras (1984) 156 Cal.App.3d 1176, 1183 []).

The general plan consists of a ‘statement of development policies . . . setting forth objectives, principles, standards, and plan proposals.’ (Gov. Code, § 65302.) The plan must include seven elements – land use, circulation, conservation, housing, noise, safety and open space – and address each of these elements in whatever level of detail local conditions require (*id.*, § 65301). General plans are also required to be “comprehensive [and] long[]term” (*id.*, § 65300) as well as ‘internally consistent.’ (*Id.*, § 65300.5.) The planning law thus compels cities and counties to undergo the discipline of drafting a master plan to guide future local land use decisions.”

The City in this case proposes to amend the general plan to conform with the Martin Expo Project developer's desired use of land at a greater height, density, and in derogation of the current general plan land use designation. This is improper. The Supreme Court held in Leshar Communications v. City of Walnut Creek (1990) 52 Cal.3d 535, 541 that the primacy of the general plan cannot be overridden by enacting inconsistent zoning ordinances:

“The Planning and Zoning Law itself precludes consideration of a zoning ordinance which conflicts with a general plan as a pro tanto repeal or implied amendment of the general plan. The general plan stands. A zoning ordinance that is inconsistent with the general plan is invalid when passed [citations omitted] and one that was originally consistent but has become inconsistent must be brought into conformity with the general plan. (§ 65860.) The Planning and Zoning Law does not contemplate that general plans will be amended to conform to zoning ordinances. The tail does not wag the dog. The general plan is the charter to which the ordinance must conform.”

The result of these Charter violations, apparent in the case of the Project proposed herein, is destructive and far-reaching. The City is up-zoning the density and height of parcels at the requests of developers, and grave conflicts with the General Plan are wiped away by ignoring the City Charter mandate that the General Plan process does not permit such piecemeal amendment. In fact, because the City has “solved” the density and height desires of developers via the unlawful process outlined above, the City has had no incentive for decades to conduct comprehensive general plan revisions required by both the State Planning law and the City's own charter. Why engage in a comprehensive and holistic planning process embodied in the General Plan when developers can get the density and increased land value by merely asking the City Planning Director, or City Council/Mayor to amend the General Plan for his or her lot?

In fact, research shows that in October 2005, the City Council approved Ordinance 177103 (effective December 18, 2005) to repeal LAMC Section 11.5.8. This law formerly imposed on the City Planning Commission the duty to periodically and comprehensively review, revise and amend the General Plan in accordance with a schedule adopted by the City Council. This municipal code mandate was part of a package of City Charter and municipal code planning reforms enacted in 1969-1970. (See detailed discussion in **Subsection C** herein.)

Incredibly, the head of the Civil Division of the City Attorney's office signed a memo representing to the public that the changes in the ordinance were merely “technical and clarifying” changes to correct typographical errors and similar matters. (**Exhibit 4** [City Attorney Report No. R05-0317 dated December 12, 2005].)

We would suggest that a repeal of the City Planning Commission's legal duty to engage in comprehensive and long-term general planning is not a technical or clarifying change. It was a substantive change, apparently adopted without serious discussion because the City Attorney's accompanying memorandum erroneously represented it as a non-substantive change. The City Planning Commission was relieved of doing "real planning." Curiously, thereafter no one on the City Council or the City Planning Commission asked what happened to the general plan comprehensive reviews. They just quietly disappeared at the City Planning Commission.

For the last decade, free of the obligations of former Section 11.5.8, this City's planning activities have been focused on project-by-project general plan amendments and massive density upzoning schemes rather than on comprehensive and long-term planning. Instead of dedicating City Planning staff resources on real General Plan activities, the overwhelming majority of the employees of the City Planning Department are deployed to process individual projects. The most talented planning staff members are assigned, perhaps against their own better judgment, to shepherd these mega-density projects through the entitlement process to carry out spot general planning and zoning.

Any project can be approved almost anywhere. With the so called Hybrid Industrial Zone Ordinance, the City proposed to foreclose high-paying industrial jobs in order to inject residential land uses into industrial zones constructed by the same millionaire and billionaire developers who were developing other parts of the City. On the day when the Hybrid Industrial Zone Ordinance was before the Planning and Land Use Management Committee of the City Council, staff explained that once the ordinance was adopted, it would be implemented through more General Plan Amendments, likely on a project-by-project basis. The loss of such industrial land will be incremental until the day will come when the City does not have sufficient industrial land.

Meanwhile, unlike the Martin Expo Project located in West Los Angeles / Sawtelle, the City Council has started a campaign to insert skyscrapers where there is neither a "hint" nor a "whisper" that such a location is appropriate. Recently, the City Council and Mayor approved a massive skyscraper on quiet Catalina Avenue in Koreatown by allowing a general plan amendment to increase the density, to rezone, and to increase height limits. Two community groups have sued over this outrageous insertion of a luxury skyscraper in the midst of an area never planned for such development.

Most recently, the City Council President, over objections of the community, led a City Council approval of the Cumulus Project, a 1 million square feet project, including a luxury skyscraper at an old radio/television site on La Cienega Boulevard. The general plan and zoning permit no such skyscraper, but it was no problem for the City Council President to ask his colleagues to wipe out the general plan and zoning for this particular parcel and substitute a massive increase in density. These are examples of serial violations of the People's Charter to defer to the desires of real estate development interests that contribute heavily to the campaigns of City Councilmembers. Two community groups have sued the City for this equally outrageous assault on comprehensive planning of the City.

The City's ongoing refusal to comply with the plain language of its own City Charter and the discovery that it quietly repealed its legal obligation to periodically and comprehensively keep its General Plan up-to-date, led to the formation of a Coalition to propose and gather signatures on an initiative addressing this corrupt practice of City officials. Entitled the "Neighborhood Integrity Initiative," it provides further clarification of the City Charter prohibition of piecemeal general plan amendments, and it restores former LAMC Section 11.5.8 that imposes a duty on the City to periodically and comprehensively update its General Plan on a regular basis, instead of ignoring this vital planning duty. For instance, some of the General Plan elements have not been reviewed and updated since the late 1960s. As former City Planning Director Gail Goldberg implied in her well-publicized remarks, this is no way to run a city.

Furthermore, the findings of the City Planning Department Staff Report are not discussed in the DEIR, nor are they justified. This failure to include the Staff Report in the DIER further disenfranchises the public and removes their opportunity to comment upon and participate in the Land Use process.

C. The History Of The Enactment The Language of City Charter Section 555 Establishes That Project-Based General Plan Amendments Are Prohibited.

Sometimes things go full circle. The City's current attempt to abandon all pretense of community planning looks strikingly similar to the crisis that led to the People reforming the City's planning and land use laws in the 1960s – including placement of the geographical limitation clause of City Charter Section 555 in the Charter.

The crisis became clear when, in November 1966, the Los Angeles Civil Grand Jury issued a report concerning "a complex zoning case in the West Valley section of Los Angeles." "The evidence before us indicated that a developer had represented to his partners that he could secure favorable zoning treatment from the City of Los Angeles in exchange for payment of monies." (**Exhibit 5** [1966 Grand Jury Report].) Although the Grand Jury was unable to conclusively determine that monies were paid in exchange for the City Council to reverse adverse recommendations from every agency that considered the West Valley zoning proposal from its inception, the Grand Jury observed:

“We regretfully report that evidence we heard demonstrated that influence can and has been and in all probability will be exerted through the medium of campaign contributions, political obligations and friendships.” (Id.)

Based upon this observation, the Grand Jury made a number of recommendations including conflict of interest legislation, requiring applicants to list campaign contributions made or promised to an elected official under penalty of perjury, that zoning hearings be conducted under oath, and that super majority City Council votes be required to override the conclusions of subordinate land use decision makers in the City.

In the Grand Jury’s conclusion, it strongly urged the City to commence an in-depth study to prevent the poor adherence to the City’s General Plan evidenced in the case before it:

“It is apparent that a projected and in-depth study of this field is not only overdue, but one which would be invaluable to the interests of our community. It is our recommendation that such a study should be undertaken as soon as possible.” (Id.)

Corruption indictments and convictions of numerous people (**Exhibit 6** [Newspaper clippings of Los Angeles Times articles reporting the scandals]) including a City Councilmember (**Exhibit 7** [LA Times Shepard Bribery Verdict]) followed. The City Council then appointed a Blue Ribbon Commission that studied and made recommendations. Known as the “Citizen’s Committee on Zoning Practices and Procedures,” it dealt with abuses that resulted from the City Council routinely ignoring its General Plan or current zoning plans to grant developers zoning or exceptions to zoning they wanted – apparently in exchange for campaign contributions, monies given to favorite non-profits of the Councilmember, and free travel/gifts.

As the West Valley Property Owners’ Association observed in its letter to the City Council supporting the charter amendments proposed by the Citizen’s Committee:

“In 1966 a mandate was delivered by the Grand Jury to enact proper zoning practice reforms to prevent a re-occurrence [sic] of the shocking scandals surrounding certain zoning cases. Since that time, we have seen several public officials brought to trial and convicted on various charges. One case, still before the courts, involves a member of the Los Angeles City Council.” (Exhibit 8 [West Valley Property Owners’ Assn. February 11, 1969 letter].)

After more than a year of hearings and investigation, in July 1968, the Citizen's Committee issued its First Report to the Mayor and City Council entitled "A Program to Improve Planning and Zoning in Los Angeles." The report contained 36 recommendations for improvement including charter amendments, municipal code amendments, uniform zoning hearing procedures (which 46 years later remain undone), and ethics reforms. (**Exhibit 9** [Citizen's Committee First Report and Summary Version of First Report].)

Particularly significant for a reviewing court of the action proposed in this case, were the findings of the Citizen's Committee:

"The main purpose of defining the General Plan content [in the City's Charter] should be to insure comprehensiveness. We find that there are at least four dimensions of comprehensiveness which should be recognized:

1. Geographic -- The entire area of the City should be covered. However, because of the large size and peculiar boundaries of the City, it is not always practical to consider the entire City as a single planning unit. Therefore the City should be divided into smaller units for planning purposes -- **but any such unit should be an area of substantial size, with social and economic identity.**" First Report, p. 19.

And on p. 21 of the First Report where "Area-by-Area Consideration" is set forth in detail, the Committee made this recommendation:

"Recommendation 3: Provide for the adoption or amendment of the General Plan on a scheduled area-by-area basis, each area covering less than the entire City, **but must involve comprehensive consideration of a logical planning area.** The General Plan should be reviewed on this regularly scheduled area-by-area basis, such schedule and areas to be established by the City Council upon recommendation of the Director of Planning and the City Planning Commission." (Emphasis added.)

The Committee then acknowledged for local planning, that "for many purposes it is necessary to deal with **community-size units** such as Hollywood, San Pedro, Pacific Palisades and the central business district." (Emphasis added.) The Committee's recommendation emphasized the need to assess each general plan amendment within "logical planning units" on the community level:

“In view of the size and diversity of the City of Los Angeles, it is apparent that much of the material which should constitute the City’s General Plan can only be adequately maintained through a continuing area-by-area process of study and revision.” First Report, p. 21.⁴

In support of the recommendation that general plan amendments be conducted on an area-by-area basis, the Citizen’s Committee observed precisely what a reviewing court will conclude was the origin of the actual language in the City Charter that restricts the smallness of a general plan amendment:

“A completely piecemeal approach to General Plan amendments would defeat the principle of comprehensiveness and destroy the integrity of the Plan. To prevent this, any change in the Plan should be viewed in at least a community-wide context. Therefore, in the above recommendation we propose that recognized community areas with social and economic identity be the minimum size units for general plan study and revision.” First Report, p. 21 (emphasis added.)

Following the First Report, there were two joint meetings of the Citizen’s Committee and the City Planning Commission where there was agreement on 21 recommendations. After the Citizen’s Committee submitted its proposed charter amendments to the City, the City Council revised and weakened some of the amendments and sent it to the voters. On May 25, 1969, the voters adopted the Charter Amendments.

Just prior to the election, the Citizen’s Committee issued its Final Report, which set forth each of the charter amendments proposed to the planning and zoning provisions of the City’s charter. (**Exhibit 10** [Citizen’s Committee Final Report].) The Citizen’s Committee set forth all new proposed language to implement its recommendations regarding adoption and amendment of the general plan. New City Charter Section 96.5(3)(a) read as follows:

“Proceedings pertaining to preparation, consideration, hearings, time limited, approval and adoption of the General Plan, or any of its parts or amendments thereto, shall be as provided by ordinance, subject to the following limitations:

⁴ The recommendation of reviewing the General Plan on an area-by-area basis was implemented with the enactment of LAMC Section 11.5.8. This is the code section quietly repealed by the City Council based upon the material misrepresentation of the City Attorney that all the changes in a proposed ordinance amending the municipal code were to correct typographical errors or clarify existing language.

- (a) The General Plan shall be so prepared that the Planning Commission may approve and the Council **may adopt it only as follows:** as a whole; by complete subject elements; **by substantial geographical areas; or by substantial portions of subject elements; provided that any such area or portion has significant social, economic or physical identity.**” (Final Report, p. 15; emphasis added.)

This portion of new City Charter Section 96.5 included this explanatory note:

“To be truly comprehensive, the General Plan must cover the entire City and interrelate all of the pertinent subject matter. However, because Los Angeles is so large and complex, it is necessary as a practical matter to break the Plan **into logical units** for consideration and adoption. On the other hand, **it would be entirely inconsistent with the comprehensive nature and coordinating purpose of the General Plan for it to be adopted and amended in small bits and pieces. In order to prevent such piecemeal consideration, a limitation must be placed upon the extent to which the Plan can be divided up for purposes of adoption or amendment.**” (Emphasis added.)

Under the authority of this section, the City was broken up into 35 community plans based upon characteristics that marked a significant social, economic or physical identity.

This anti-corruption and comprehensive planning reform remained untouched in the City’s Charter from 1969 until minor wording adjustments as part of the City’s 1998-1999 overhaul of the City’s Charter.

In 1999, the draft of the Appointed Charter Reform Commission was adopted by the joint meetings of the Appointed and Elected City Charter Reform Commissions. The redlined changes to the City Charter Section 96.5 were minor and the limiting language is now found in the reorganized 2000 City Charter at Section 555. The portion relevant to the issues involving the 5901 Sunset Project is:

“Sec. 555. General Plan - Procedures for Adoption.

Procedures pertaining to the preparation, consideration, adoption and amendment of the General Plan, or any of its elements or parts, shall be prescribed by ordinance, **subject to the requirements of this section.**

(a) **Amendment in Whole or in Part.** The General Plan may be amended in its entirety, by subject elements or parts of subject elements, or by geographic areas, provided that the part or area involved has significant social, economic or physical identity.

(b) **Initiation of Amendments.** The Council, the City Planning Commission or the Director of Planning may propose amendments to the General Plan. The Director of Planning shall make a report and recommendation on all proposed amendments. Prior to Council action, the proposed amendment shall be referred to the City Planning Commission for its recommendation and then to the Mayor for his or her recommendation.” (Emphasis added.)

The City Planning Department, City Planning Commission, the City Attorney, and City Council have violated the City Charter by allowing project applicants to apply for general plan amendments in the above-described manner. Further, such project applicants have been allowed to apply for a general plan amendment merely for their own parcel(s) of land. City officials are violating the City Charter by allowing project applicants to ask for general plan amendments and to seek such amendments for, in the words of the Citizen’s Committee, “small bits and pieces” of the City which is “entirely inconsistent with the comprehensive nature and coordinating purpose of the General Plan.”

In a new Second District Court of Appeal case involving the City of Los Angeles, Schafer v. City of Los Angeles (2015) 237 Cal.App.4th 1250, 1263, the Court of Appeal observed how the grant of an exception from a currently adopted general plan or zoning code would override the great public interest in comprehensive planning and zoning.

“Zoning laws concern ‘a vital public interest – not one that is strictly between the municipality and the individual litigant. All the residents of the community have a protectable property and personal interest in maintaining the character of the area as established by comprehensive and carefully considered zoning plans in order to promote the orderly physical development of the district and the city and to prevent the property of one person from being damaged by the use of neighboring property in a manner not compatible with the general location of the two parcels. [Citation.] These protectable interests further manifest themselves in the preservation of land values, in esthetic considerations and in the desire to increase safety by lowering traffic volume.’ . . . (Pettitt v. City of Fresno (1973) 34 Cal.App.3d 813, 822-823, [parallel cite omitted].)” (Emphasis added.)

As shown above, the City cannot approve the Martin Expo Project. The Project site consists of a flat asphalt parking lot surrounded by shrubbery. A single parking lot, which is the “geographical area” proposed to be considered for a general plan amendment within in the meaning of the City Charter, has no “significant social identity,” no “significant economic identity,” or no “significant physical identity.” A parking lot is not a “logical planning unit”. A parking lot is not a “community of interest.”

As explained fully by the Citizen’s Committee in its Final Report to the voters, the City practically needed to be divided by areas of historic community boundaries to plan its land use, and nothing smaller. Moreover, in order to avoid a repeat of the use of campaign contributions, special friendships and favors to obtain special zoning treatment, the Citizen’s Committee proposed the restrictive language in the City Charter to avoid future corrupt City Hall land use decision making.

Ever since the City has ignored the City Charter restriction, we have come full circle to 1969 and the reason criminal indictments were brought against a sitting City Councilmember. This practice is facially unlawful and no City official may knowingly defy the People’s will as set forth in the Charter.

D. All Of The Foregoing Requires The City Council To Deny The Requested GPA, Zone Change, And Height District Entitlements.

The previous sections set forth the substantial evidence showing the City can make no valid finding that the Project as proposed and discussed in the Final EIR can comply with the General Plan because the proposed plan amendment would be unlawful -- the City Council has no power to change the General Plan for a geographical area so small, and therefore the unlawful Project is inconsistent with the General Plan. All of the evidence set forth above also supports the conclusion that the requested zone change and height district change, which directly depend upon the ability to carry out the general plan amendment, must be denied because an attempt to approve such entitlements would violate Charter Section 555 and the current general plan provisions. Furthermore, because these entitlements must fall, there is no basis to grant the conditional use or site plan review which both depend upon the unlawful general plan amendment and rezoning.

Because the proposed general plan amendment is unlawful, the only lawful course a City Planner, the City Planning Director, and City Planning Commission, and the City Council could take is to apply the provisions of the existing West Los Angeles Community Plan. Because the Project as proposed violates all of these plans and programs, it must be denied by the City Council.

E. The Land Use Analysis Is Plainly Deficient.

The City asserts in the Land Use Section of the Draft EIR that the Project is consistent with various land use plans, but in fact, the Project represents a colossal violation of the General Plan land use designation as Light Manufacturing. There is no substantial evidence to support a conclusion in the Draft and Final EIR that the Project is entitled to seek a general plan amendment to change all of these major limitations on the developer's "desired" entitlement.

The Draft EIR admits that the Project would violate the density limits under the existing General Plan Land Use Designation of "Light Manufacturing", but then proposes that with the City's violation of its own Charter via a parcel-based General Plan Amendment, the land use inconsistency can be wiped away:

"As described above, the Project Site is currently designated for Light Industrial uses in the West Los Angeles Community Plan, and is zoned M2-1. The Project as proposed is inconsistent with both the zoning and General Plan land use designation for the Project Site. However, the Project requests a General Plan Amendment from Light Industrial to General Commercial, as well as a zone change from M2-1 to C2-2D. With approval of these requests, the Project would be consistent with the zoning and land use designations for the Project Site, and no impacts would occur."⁵ (Emphasis added)

"As discussed previously, the Community Plan designates the Project Site for Light Industrial land uses (see Figure 4.H-1, Existing Land Use Designations). The Project would include a mix of residential, office, retail, and restaurant uses that would be inconsistent with the existing Light Industrial land use designation for the Project Site. Therefore, as part of the Project, the Applicant is seeking a General Plan Amendment to change the land use designation from Light Industrial to General Commercial."⁶ (Emphasis added)

Furthermore, from Table 4.H-5 of the DEIR the Martin Expo Project is "inconsistent" with 16-1.1 "Maintain a satisfactory LOS for streets and highways that should not exceed LOS 'D' for Secondary Highways and Collector Streets; nor LOS "E" for Major Highways or major business districts." The DEIR admits that the "Project does not further Community Plan Policies 16-1.1 and 16-2.1 due to the significant intersection impacts that cannot be fully mitigated..."⁷

The Martin Expo Project is also "inconsistent" with "16-2.1: No increase in density shall be effected by zone change, plan amendment, subdivision or other discretionary action, unless it is determined that the transportation infrastructure serving the property can accommodate the traffic generated."

5. Draft EIR Martin Expo Project, 4.H. Land Use and Planning, Page 4.H-42

6. Draft EIR Martin Expo Project, 4.H. Land Use and Planning, Page 4.H-27

7. Draft EIR Martin Expo Project, 4.H. Land Use and Planning, Page 4.H-27

The failure to disclose to the public and City decision makers that the proposed General Plan Amendment would violate City Charter Section 555, subdivision (a), is a violation of CEQA's mandate that the City disclose and analyze the true land use impacts. An applicant may not use the land use analysis to obscure and materially misrepresent the City's authority to grant a General Plan Amendment. The discussion presented in the Land Use Section of the Draft EIR acts as if the City possesses the authority to grant a General Plan Amendment for an individual parcel. It clearly does not. The failure to disclose and address this fatal flaw in the Project is also a failure to proceed in accordance with law under CEQA.

F. The Cumulative Impacts Analysis Is Inadequate.

Proper cumulative impacts analysis of issues such as cumulative land use impacts, traffic impacts, impacts to public services such as police and fire, and construction noise impacts from all of the past, present and reasonably probable future projects in the pipeline both in West Los Angeles and throughout Los Angeles, has not occurred in this EIR. As stated in *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184: "Proper cumulative impacts analysis is absolutely critical to meaningful environmental review" (id at 1217), and "questions concerning... cumulative impacts constitute important issues of broad public interest that are likely to reoccur." Id, at 1203. See the EIR's related projects list in the Environmental Setting section. That list is in no way comprehensive and does not take into account many newer projects now in the application process, including a tsunami of new development. Even more serious than the deficient cumulative impact analysis is the utter failure of the City to account for the balance of density authorized in the 1988 General Plan Consistency Program.

Additionally, although the City is mandated to prepare and circulate an adequate environmental review of the Project, the environmental impact report ("EIR") contains fatal flaws that have deprived the public and City decision makers of the information they need to understand the Project, its potential adverse environmental impacts, and whether or not the City has fulfilled its mandatory duty to mitigate the impacts to the greatest extent feasible. Moreover, this EIR was prepared under the direct control of the developer and then merely handed over to City officials to review before its release. The errors and omissions in this EIR are many, and glaring.

Firstly, the Draft EIR included a Land Use Equivalency Program. Many of the comment letters in the FEIR pertained to the LUEP and were critical of it. When the LUEP was dropped, the developer should have recirculated the EIR. The Public was deprived of the right to comment and the right to participate by this lack of re-circulation. **The FEIR included 800 pages of new traffic studies.** That is the size of a typical EIR. Again, the Public was denied the right to comment on this tremendous amount of new information. The FIER also included an increase in the amount of retail space, from the Draft EIR number of 67,000 sq. ft to the FEIR's much greater 99,000 sq. ft. Again, the Public was deprived the right to comment on this increase.

Also, the Cumulative Freeway Analysis for Martin Expo Project Project, done by FEHR PEERS, appears in the FEIR on page 1264. Not only was the Public denied the right to comment on this, so was CalTrans, the experts in this area. The FIER is devoid of any analysis of this study. This is another basis for re-circulating the EIR.

The California Environmental Impact Report was both insufficient and inadequate. What little “analysis” there is suppresses information regarding the cumulative impacts of the Project in the context of the surrounding environment of multiple properties and projects with approved entitlements, some as-yet unbuilt, and others seeking massive upzoning and densification. The EIR has thus pursued the isolated- Los Angeles City Council Planning and Land Use Management August 9, 2016 Page 49 focus approach to cumulative impacts that was condemned as inconsonant with the CEQA Guidelines in Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 718-721. In addition, there are several other projects which are reasonably foreseeable, although not necessarily in the formal planning stage. There is a 60,000 sq ft grocery store with residential proposed on the corner of Santa Monica Blvd and Barrington and another mixed use project on Santa Monica Blvd at Granville.

Citizens Assn, for Sensible Development of Bishop Area v. County of Inyo (1985) 172 Cal.App.3d 151, made it clear that consideration of cumulative impacts must reach beyond those projects currently under environmental review: “Related projects currently under environmental review unequivocally qualify as probable future projects to be considered in a cumulative analysis. [Citation] In addition, even projects anticipated beyond the near future should be analyzed for their cumulative effect.” Id. at 168 (emphasis added), citing Bozung v. Local Area Formation Cmte (1975) 13 Cal.3d at 284.

“A cumulative impact analysis which understates information concerning the severity and significance of cumulative impacts impedes meaningful public discussion and skews the decision maker’s perspective concerning the environmental consequences of the project, the necessity for mitigation measures, and the appropriateness of project approval.” Citizens to Preserve the Ojai v. County of Ventura (1985) 176 Cal.App.3d 421,431.

If it is “reasonable and practical” to include other projects in a project’s cumulative impacts analysis, then the lead agency is required to do so. San Franciscans For Reasonable Growth v. City and County of San Francisco (1984) 151 Cal.App.3d 61, 77. “While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.” Guidelines, § 15144. Given the magnitude of the Project’s proposed impacts both individually and cumulatively, these issues must be disclosed, analyzed and mitigated in a recirculated DEIR.

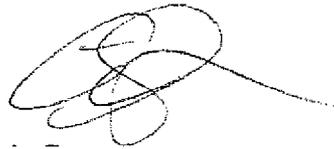
IV. CONCLUSION.

For all of the foregoing reasons, the Project application and requested approvals are not supported by law and must be denied, or at minimum sent back to Planning for revision in compliance with existing plans and zoning. In addition, the appeals of the approvals of the land use entitlements must be granted and the approvals overturned. The Project is not consistent with the City's Charter, General Plan, Municipal Code, or state law, including CEQA. We respectfully request that you reject the Project as proposed and inform the applicant that going forward, the City Planning Commission will comply with City Charter Section 555 and its obligations to maintain a proper West Los Angeles Community Plan density balance.

Thank you for your courtesy and attention to this matter.

Xochitl Gonzalez, MFA

Aric L Gregson, MD



Additional Signatories:

Naomi Kageyama, WLASNC Member (for Identification Purposes Only)
West Los Angeles Resident

Lori Quon - West Los Angeles Resident

Ron Kageyama, Co-President of FK Nursery

Enclosures: 1-10

Exhibit 1



Executive Office



City Hall • 200 N. Spring Street, Room • Los Angeles, CA 90012

April 8, 2015

TO: All Concerned Consultants, Developers, Engineers, Surveyors and Applicants

FROM: Michael LoGrande, Director of Planning *Michael LoGrande*

SUBJECT: **GENERAL PLAN AMENDMENT INITIATIONS, REQUESTS TO THE DIRECTOR OF PLANNING**

The City consists of 35 community plans which implement our land use policies throughout the City. A major function of the Department of City Planning (Department) is the periodic updating of these community plans to reflect changes desired by the community. On occasion, applicants and private property owners have requested an amendment to a community plan in order to facilitate consideration of a proposed project. However, it is important to note that all General Plan Amendments, including those limited to a specific property or properties, must be initiated by the City of Los Angeles. Specifically, Plan Amendments can only be initiated by the City Council, the City Planning Commission or the Director of Planning (LAMC 11.5.6 B).

In order to provide early feedback to an applicant considering such a request, the Department's management team, comprised of both policy planning and project planning staff, will convene an internal meeting to review the General Plan Amendment request prior to the actual filing of the application at the Development Services Center. If the Director of Planning determines the request is worth consideration and has the potential of meeting the findings for a General Plan Amendment, the applicant will be directed to proceed with the application. A clearance sheet will be provided for inclusion in the application filing package. Initiating an applicant's request does not imply an approval, but rather that the Department will review and prepare a recommendation to the appropriate decision-making body. If the Director of Planning declines to initiate the applicant's request for a General Plan Amendment, the applicant may meet with staff to discuss other options.

In order to start the process, the applicant is asked to submit some basic information regarding the development proposal including: the project description; the existing conditions and uses of the proposed project site; the requested entitlement package, including information pertaining to the General Plan Amendment request and any zoning modifications; and a description of neighboring land uses and the character of the area. There is no fee or environmental clearance associated with this management-level preview and the turnaround time for feedback is generally one to two weeks. This management review is intended to provide early guidance and set clear expectations for applicants prior to formal submission of the application, thus avoiding unnecessary time delays, costs and major surprises later in the process.

Memorandum - General Plan Amendment Initiations
April 8, 2015
Page 2 of 2

Please submit the following materials:

1. A brief 1-2 page cover letter describing the development proposal, the existing land use designation and zoning, the proposed General Plan Amendment request, other requested entitlements, existing site conditions, and the surrounding uses and neighborhood character.
2. 8 1/2 x 11 color maps indicating the existing and proposed land use designations and zoning.
3. Any additional exhibits including site plans, renderings or photographs that will assist the Department's Management Team in their initial review of your proposal.

These materials can be hand delivered, mailed or sent electronically to the following Los Angeles Department of City Planning staff.

Lisa Webber, Deputy Director of Planning
Department of City Planning – Executive Office
City Hall, Room 525
lisa.webber@lacity.org

Bob Duenas, Senior City Planner
Valley Neighborhood Projects
6262 Van Nuys Blvd., Room 430
bob.duenas@lacity.org

Conni Pallini-Tipton, Senior City Planner
Community Planning
City Hall, Room 667
conni.pallini@lacity.org

Shana Bonstin, Senior City Planner
Metro Neighborhood Projects
City Hall, Room 621
shana.bonstin@lacity.org

Patricia Diefenderfer, Senior City Planner
Community Planning
City Hall, Room 667
patricia.diefenderfer@lacity.org

Simon Pastucha, Senior City Planner
West-South LA Neighborhood Projects
City Hall, Room 621
simon.pastucha@lacity.org

Luciralia Ibarra, Senior City Planner
Major Projects Section
City Hall, Room 750
luciralia.ibarra@lacity.org

Exhibit 2



Executive Office

City Hall • 200 N. Spring Street, Room 525 • Los Angeles, CA 90012

REQUEST FOR INITIATION OF AN AMENDMENT TO THE CITY'S GENERAL PLAN

I hereby request that the Director of Planning initiate a General Plan Amendment from

to _____

on property located at _____

within the _____

District/Community Plan _____

(Signed) Applicant/Representative

Date

STAFF USE ONLY: CPC CASE NO. _____

To insure a comprehensive review of the request and to avoid the introduction of any "spot" planned land use, staff recommends that the Director of Planning consider initiating additional properties (ADDED AREAS) within the immediate area for a similar change of the plan from _____
to _____

Location _____

Pursuant to the City Charter and the Los Angeles Municipal Code, I hereby initiate the plan amendment(s) as requested by the Applicant/Representative and the "Added Areas" as recommended by staff.

Michael J. LoGrande
DIRECTOR OF PLANNING

Date

CITY OF LOS ANGELES
DEPARTMENT OF CITY PLANNING

INITIATION REQUEST
AND TIME EXTENSION AUTHORIZATION

Initiation. By law only the City may initiate a Plan Amendment. Your application is technically for a Zone Change only. Therefore you must request that the City initiate the corresponding Plan Amendment by checking the box below:

I hereby request that the City Planning Commission initiate a Plan Amendment consistent with my requested zone change.

Time extensions. The City Planning Commission will hear General Plan Amendment cases in a timely manner. The maximum authorized processing time for General Plan Amendment cases, from the Fee Payment date to Commission action date, is 180 days. By authorizing the maximum allowable processing time and the extension, you may avoid having your case delayed or denied due to lack of time to resolve controversial issues. You should therefore check the following boxes, agreeing to the potential extensions:

I hereby consent to the maximum 180-day time limitations pursuant to LAMC Section 12.32 C 6.

(Signed) _____
Applicant or Representative

(Date) _____

SCREEN FORM (Continued)

(1) CRITERIA (2) ANSWER YES OR NO:

Please refer to the maps on file in Counter N to determine Hillside areas, CRA areas, Specific Plan areas, Open Space areas.

Any YES answer requires consultation with the Geographic Section head prior to filing. A complete plan restudy or other type of planning approval may be required.

IS (DOES) THE PROJECT:

Project area in acres	200 acres or more	_____
New dwelling units in project	1,000 units or more	_____
New non-residential square footage	1,000,000 sq.ft. or more	_____
Acreage within "hillside" areas (shown on CP-6112)	50 acres or more	_____
Acreage for projects located in whole or in part in a CRA area	50 acres or more	_____
Mixed use combining residential and commercial uses	500,000 sq. ft. or more	_____
Specific Plans	In a Specific Plan area	_____
Highway Designation	Require change to Hwy. Desig.	_____
Change Plan text and/or legend	Require change to text/legend	_____
Open Space Designation	In an Open Space Area	_____

Exhibit 3



CITY HALL'S "DENSITY HAWKS" ARE CHANGING L.A.'S DNA

BY STEVEN LEIGH MORRIS

WEDNESDAY, FEBRUARY 27, 2008 | 8 YEARS AGO

Soon after taking the job of director of the Los Angeles Department of City Planning in 2006, Gail Goldberg made a declaration that let slip how City Hall is allowing developers to pursue a building frenzy straight out of the storied tale *Chinatown*.

Said Goldberg, newly arrived here from a similar post in San Diego:

"In every city in this country, the zone on the land establishes the value of the land. In Los Angeles, that's not true.

"The value of the land is not based on what the zone says ... It's based on what [the] developer believes he can change the zone to.

"This is disastrous for the city.

"Disastrous.

"Zoning has to mean something in this city."

Goldberg probably wishes she hadn't said that, not necessarily because she got reprimanded by L.A.'s famously vindictive Mayor Antonio Villaraigosa, but because Los Angeles County Supervisor Zev Yaroslavsky has repeated her words in public, over and over. Yaroslavsky, who represented the city's affluent Westside District 5 as a councilman until 1994, has been staging a one-man campaign to slow City Hall's feverish promotion of density – a quiet war on the large swaths of suburbia and few hunks of countryside remaining inside the city limits. With little debate, a trio of new "density enabling" ordinances (a real mouthful, known as the Downtown Ordinance, the Parking Reduction Ordinance and the Senate Bill 1818 Implementation Ordinance) has rolled through Goldberg's Planning Department and ended up in the ornate council chambers on City Hall's second floor.

The first two were easily approved, and the SB 1818 Implementation Ordinance passed on February 20, with only council members Dennis Zine, Janice Hahn, Bill Rosendahl and Tom LaBonge opposed. On paper, the three ordinances will let developers bypass the city's fundamental zoning protections – and profoundly alter the livability, look and essence of L.A.

This is no small thing. The rules for how Angelenos wanted to fashion their city were arduously, sometimes bitterly, negotiated among homeowners, developers, environmentalists and politicians in the mid-'80s, led by then city councilmen Joel Wachs, Marvin Braude and Yaroslavsky. Those core rules today hold tremendous power, creating a blueprint that dictates which Los Angeles neighborhoods should be preserved – and which should be dramatically built up.

Yet in contrast to the boisterous civic debate launched by city and community leaders in the 1980s, the Villaraigosa administration has grown accustomed to only tepid public interference and awareness. Through aide Gil Duran, the mayor has for five months ducked *L.A. Weekly's* routine questions about his agenda's potential consequences citywide – much taller and fatter residential buildings than zoning law allows, significantly less green space, obliteration of residential parking in some complexes and removal of older, less expensive housing. (Hours before the *Weekly* went to press, Deputy Mayor Helmi Hisserich finally responded, lashing out at "heads in the sand" sentiments and warning that "the city is not going to stop growing.")

On the City Council itself, the likes of Wachs and Braude are long gone, replaced by avidly prodensity council members such as Jan Perry, Council President Eric Garcetti and Wendy Gruel, who rarely say no to grand construction plans and work in tandem with obscure regional planning commissions that routinely override zoning rules in favor of developers and property owners.

Yaroslavsky, silent for the first two years of Villaraigosa's reign, now snaps, "These density hawks at City Hall are trying to undo 20 years of our work."

The constant overriding of zoning protections has indeed been relentless – a binge of "zoning variances" and "zone changes" granted by longtime Zoning Administrator Michael LoGrande, a little-known official who is the rear admiral of a prodensity flotilla inside City Hall that long predates Villaraigosa's administration.

The variances and zone changes – quite simply, permissions to skirt existing rules – are granted on a case-by-case basis, and LoGrande hands them out like candy. LoGrande did not return numerous phone calls from the *Weekly*. Four biweekly Planning Department reports, randomly selected by the *Weekly* from March, June, September and December 2007, show that requests to increase housing density or square footage rolled in at about 260 annually, slowing only as the mortgage crisis hit. Retired Zoning Administrator Jon Perica explains that while the sought-after density increases are subjected to design, environmental and compatibility review, "the Planning Department historically approves about 90 percent."

For anyone paying attention, and very few people are, LoGrande's decisions – buttressed by the rulings of seven area planning commissions populated with Villaraigosa's appointees – are why some corners of the city are taller and more congested than 10 years ago, even neighborhoods whose legally binding zoning plans were supposed to achieve the opposite.

In the 1960s, a city growth cap of 4.2 million was established as the peak load for Los Angeles' infrastructure and services. This allowed for urban centers like Century City, Warner Center and downtown, while protecting single-family neighborhoods. Three years ago, Perica warned, "growth beyond 4.2 million people would require that existing single-family neighborhoods and lower-density residential areas would have to be 'up-zoned' in the future for more intense multistory density." He added pointedly, "Residents didn't want Los Angeles to look like other higher-density Eastern cities, like Chicago and New York."

Nonetheless, the agendas of builders, land speculators, the chambers of commerce, the Planning Department and elected leaders have produced a virtually nondebated tectonic shift since the residential real estate turnaround of 2002, much increased under Villaraigosa. The shift is pushing L.A. from its suburban model of single-family homes with gardens or pools – the reason many come here – toward an urban template of shrinking green patches and multistory buildings of mostly renters.

To be sure, not everyone sees this in the negative light that people such as *The New Geography* author and social critic Joel Kotkin ("We remain an increasingly suburban nation") and Yaroslavsky do. Downtown developer Tom Gilmore scoffs that Kotkin and other defenders of suburbia and single-family dwellings "take that notion of urbanism and say, 'Oh my god, they're going to do that to your neighborhood too! They're going to make everything a "heat island!"'"

To Gilmore, the attitude in Ventura County and cities such as Santa Barbara, Rohnert Park, Sonoma, Healdsburg, Tracy and Dublin, all of which have enacted residential-growth limits to stop urbanization, denies the inevitable.

Rena Kosnett

(Click to enlarge)

"Oh my god, they're going to do that to your neighborhood!" --Developer Tom Gilmore, mocking those who are worried

"Growth is not an option," says Gilmore. "We can grow with care, with thought and creativity, or we can grow the way we've grown for 150 years. I don't think the Planning Department has got it all right, but I'm happy they've got a template we can argue about."

But his notion of a grand civic debate under way is a façade. The public have little idea what is being allowed even in their immediate area. Downtown insiders such as Ed Reyes — a city councilman and chairman of the powerful Planning and Land Use Management Committee — working with Villaraigosa's handpicked department heads like Goldberg and mayoral appointees like former Councilman Mike Woo (on the Planning Commission) aren't engaging Angelenos in any serious discussion of their "template." And the mayor is assiduously avoiding a public debate in which he might be forced to justify his vision.

Their template could force urbanism onto all but the most protected enclaves of Los Angeles. The truly protected spots are "RI-zoned" — or single-family-residential only — 318,602 of the city's roughly 1.4 million housing units. The other 75-plus percent of housing units in Los Angeles — including thousands of homes in single-family neighborhoods that residents assume are RI when they are not — could potentially be "up-zoned" for apartment towers and condos. Some of the most vulnerable areas are the eastern and western ends of the San Fernando Valley — the last quadrants containing some open space.

Of 16,874 housing units built the year after Villaraigosa was elected, 86 percent were multifamily — the vast majority of those rentals. Established homeowner neighborhoods — the glue that historian and former California State Librarian Kevin Starr once noted helped hold L.A. together, even in bad times — are an afterthought; the Brookings Institute reports that L.A. is suffering a middle-class decline more pronounced than in any other urban area in America.

To be fair, some of the mayor's focus has been on truly "underutilized" areas — nearly 100 developments of 100,000 square feet or larger are proposed or approved on sites like the old Sears warehouse in Boyle Heights, land in Marlton Square in South Los Angeles, and the aging Valley Plaza in North Hollywood. Councilwoman Gruel and Council President Garcetti tout this "proactive lead from the mayor."

But there's another side: Around Vanowen and Balboa in the San Fernando Valley over the past decade, ranch homes on spacious lots have made way for apartments, condos or McMansions. Hillside from Hollywood to Mount Washington are so overbuilt that cars are ordered off the streets on "red-flag days." Along Miracle Mile, beautiful Spanish Colonial duplexes that since the 1920s have housed middle-class families sit unprotected from the urbanization steamroller.

Zev Yaroslavsky is a shrewd, politically left-of-center politician and a "slow growth" advocate with two adult children. Now 59, he's been married to health-care and child-care activist Barbara Yaroslavsky for 36 years. Born in Boyle Heights, then home to Jewish immigrants, Yaroslavsky grew up in the Fairfax District, ran track at Fairfax High, and put himself through UCLA (he has a master's in British imperial history) by teaching Hebrew in Long Beach — and playing professional poker.

He knew the gambling had to stop when he was elected to the City Council in 1975. Before he was sworn in, he paid a last visit to his favorite Gardena casino, the Normandie, sidling up to a group of Jewish matrons who said, "Zev, we know you're going to be an honest politician because you never bluff." He remembers thinking, "No, I just look like I never bluff."

Today, he says Los Angeles desperately needs a subway to the sea. But 23 years ago, he and others raised safety concerns about tunneling under the Westside after a 1985 explosion of naturally occurring methane gas ripped through the Ross Dress for Less near Fairfax. Although Yaroslavsky is sometimes blamed for halting federal funds for the line, he called for further safety studies, while Westside Congressman Henry Waxman led the fight to stop federal funds.*

For his part, Yaroslavsky in 1998 led a successful ballot effort that stopped local sales taxes from being used on the increasingly pricey subway being built under Hollywood. He instead pushed to use those funds for non-subway transit projects.*

Longtime Westsiders remember it was Yaroslavsky who ushered through the huge expansion of the Westside Pavilion in 1986, despite community outrage over gridlock. Developer Gilmore is one of many pro-growthers who blame "Zev" for so disrupting the old mass-transit scheme that today the Westside is "incredibly dense" and has "the worst traffic in the city," but Yaroslavsky tires of getting blamed for inevitable development pressures in his former Council District 5.

It is, after all, some of the city's priciest and most sought-after housing real estate, running from Palms to Encino and including Westwood and UCLA. It's something of a City Hall tradition to blame Yaroslavsky: Even back in 1987, Mayor Tom Bradley's spokesman Fred MacFarlane, in *The New York Times*, blamed the congestion on him. In the same story, an L.A. businessman noted, "Right now, any slow-growth candidate who does not get arrested for molesting children can get elected." But how times have changed.

Yaroslavsky counters today's dominant voice of pro-growthers in City Hall by saying that had he not halted the \$300-million-per-mile subway, Los Angeles could never have afforded to create the popular Orange Line bus lanes in the Valley or the Gold Line light rail from downtown to Pasadena. Sounding like the old Yaroslavsky, he tells the *Weekly*, "In all corners of the city, a revolution is brewing against the pack mentality at City Hall."

One of the issues that most sticks in his craw is the aforementioned SB 1818 Implementation Ordinance. Not exactly a household phrase, the ordinance lets developers build new apartment buildings 35 percent larger than the protective local zoning allows – if developers agree to include some below-market "affordable" units in these buildings.

But does it actually produce cheaper housing – its main aim? Yaroslavsky points to a development on Sepulveda in Westwood where a developer wiped out 31 apartments rented mostly to UCLA students for \$1,500, erecting 59 condos with mortgages of about \$3,000 a month. He recalls scornfully, "The developer says to me, 'Those [\$1,500-a-month] units weren't affordable anyway.'" Yaroslavsky retorted, "How many of those students can afford your condos after they graduate?" And the trend is spreading. In Miracle Mile, he says, "On Ridgeley and Sixth, there's four parcels of rent-controlled units. One day I'm jogging there, and they're gone!"

Under the SB 1818 Implementation Ordinance, the now-destroyed lower-cost apartments on Ridgeley and Sixth can be replaced with a luxury tower that ignores low-growth zoning – as long as the owner agrees to rent 10 to 20 percent of the apartments at "affordable" prices. The developer can now charge the current market rate (of about \$2,300 a month for a two-bedroom apartment) for the rest of the units he builds at Ridgeley and Sixth – far higher than the rents in the now-destroyed building, and enough for a mortgage in most cities.

Fumes Yaroslavsky of this "affordable" housing. "The whole thing's a fraud. It's a wolf in sheep's clothing."

Yaroslavsky's passion dates from the mid-'80s, when homeowners associations howled at a wave of construction from Hauser Boulevard to La Brea Avenue on both sides of Sixth Street in Miracle Mile that destroyed beloved, picturesque Spanish Colonial rentals boasting wrought-iron staircases, cozy alcoves and tile work from the 1920s.

The Bradley administration's urbanization frenzy ushered in shoddy, higher-density, four- and five-story apartment blocks with quickly decaying stucco veneers that looked like they'd been airlifted from Beirut. Indignation generated a wave of grassroots activism. Groups such as the Detroit Street Coalition and Not Yet New York pressured avidly pro-growth City Council President John Ferraro, and Bradley, to protect neighborhoods.

Angry citizens won a huge victory with approval of 35 legally binding land-use plans citywide, now known as "Community Plans." Largely shaped by residents, Community Plans made it harder for developers to roll through medium-density neighborhoods such as Miracle Mile. Community Plans protected the suburban character of low-density areas being eyed by developers near big streets like Florence, Reseda, Vanowen, La Brea and South Broadway.

But here's the clincher: SB 1818 trumps restrictions built into the Community Plans because it's state law. Each Community Plan is slowly being revisited by the Planning Department in negotiations among homeowners, renters, business owners and city planners, so that neighborhoods conform to projected growth. Right now, 12 city planners (plus support staff) are redoing a big batch of Community Plans including Boyle Heights, Central City, Granada Hills, Hollywood, San Pedro, South Central (redubbed Southeast), South L.A., Sunland-Tujunga, Sylmar, West Adams, West L.A. and Westlake.

In this top-down process, the Planning Department contacts each affected neighborhood council (after notifying the City Council member who oversees that neighborhood) that changes are in the wind – usually to densify the neighborhood.

Some areas face unusually dramatic growth, not because their Community Plan calls for it, but because city planners got \$1 million from the prodevelopment Southern California Association of Governments, combined with Proposition A transportation funds and property taxes, to research and plan extremely dense new neighborhoods near train stations in mostly poor areas along Exposition Boulevard in South Los Angeles, along Soto and Indiana streets on the Eastside, and near Gold Line stations in Chinatown, Lincoln Heights and Cypress Park.

Wes Joe, of the Silver Lake Neighborhood Council, says that his Community Plan was rewritten in 2004, just before Goldberg got here from San Diego, so Silver Lake won't be up for review for some time. Joe says city officials contacted one in five Silver Lake households that year to help redo the Community Plan, and those meetings drew the "usual array of Anglo homeowners" in a neighborhood that's also heavily Latino. Steve Leffert, the president of Lake Balboa Neighborhood Council in the Valley, says that Lake Balboa's two adjacent Community Plans were rewritten in 1993 and 1994, and he's heard nothing from the Planning Department – yet.

The ostensible purpose of Community Plans is to manage the growth that is now officially capped at 4.2 million before city services – like sewerage and local roads – are strained beyond capacity. Perica points out that the current population of 3.9 million doesn't include the 300,000 to 400,000 undocumented residents who make up 10 percent of the city, some living in 50,000 to 70,000 illegally adapted garages and storage spaces, according to the Department of Building and Safety. "Keep that in mind the next time you're stuck in traffic," Perica says. And the planning that exists for that shadow population doesn't begin to address the scale of the problem.

Some residents are stunned by the way the city is trying to circumvent the intent of the Yaroslavksy-sponsored slow-growth measure known as Proposition U, embraced in a landslide vote in 1986, which cut in half the size of buildings allowed on commercial strips adjacent to residential areas.

Voters ushered in Prop. U after then Mayor Bradley, Council President Ferraro and prodeveloper council members like Pat Russell embraced wildly inappropriate projects. Westwood Village was targeted for massive growth, and a huge trash-burning facility, Lancer, was pushed in South L.A. One flash point came with the \$43 million, six-story Encino Terrace Center office tower, which now looms over an attractive Encino neighborhood, wiping out privacy below and casting a permanent shadow.

Prop. U aside, North Hollywood and Hollywood are now targeted for 20-to-35-story skyscrapers that include a mix of residential on the upper floors and commercial on the bottom. The 35-story Columbia Square building will tower over Sunset Boulevard at Gower Street. Such skyscrapers represent dramatic – and virtually undebated – departures for Hollywood and the Valley. Neither skyscraper site is protected by Prop. U, which doesn't apply to Hollywood, downtown or the Metro Rail site in North Hollywood.

Beyond what's in store for Hollywood and the Valley, Yaroslavsky also believes that the SB 1818 Implementation Ordinance places treasured, low-slung neighborhoods such as the Fairfax District's historic rental corridor at risk. But since the mayor is ducking public discussion, Yaroslavsky, a powerful elected official, finds himself instead debating two little-known, if influential, city employees who serve at Villaraigosa's pleasure – Goldberg and Senior City Planner Jane Blumenfeld.

"This is where Gail Goldberg is missing the boat," Yaroslavsky explains of the threats to established, steady neighborhoods. For example, in the Fairfax District, where SB 1818's incentives allow developers to blow past existing zoning, "You've just increased the chance of demolition and redevelopment from impossible to probable."

Though Goldberg counters that the new law doesn't threaten the Fairfax District, in a moment of candor she agrees that SB 1818 is an unavoidable state law that's "a terrible fit for Los Angeles." Blumenfeld, too, concedes that it's "draconian ... but we're trying to make it work."

But Yaroslavsky says it was Blumenfeld, not the state, who pushed the new densities well beyond the state requirements to "35 percent more density," and Blumenfeld then "laid out all the 'findings' to approve it."

Villaraigosa isn't part of this growing rancor. His own views are unknown, aside from his repetitive claim that the "construction crane is the official bird" for Los Angeles.

Meet Jane Blumenfeld, the object of Yaroslavsky's scorn and senior planner for the city of Los Angeles. After receiving her bachelor's in history from the University of Wisconsin, and then a master's in city planning from the University of Pennsylvania, she came here in 1978, working as a planning adviser for Mayor Bradley, just as young Councilman Yaroslavsky was ushering through Prop. U to halt commercial high-rises near homes.

After spending some years in the real estate business, Blumenfeld worked as chief of staff to former Councilman Mike Feuer, then rejoined the Planning Department in 2001. A small woman with a quick wit propelled by spurts of sarcasm, Blumenfeld appears a bit stunned by the charges Yaroslavsky lodges against her, like an elf reacting to the roar of a bear.

"All right ... all right," she says calmly. "Let's just take a look at *his* work."

Blumenfeld leads me through a maze of hallways in City Hall, to an inner office where she points to a color-coded map. "See that?" she says, pointing out that 83 percent of the commercial parcels in the city are marked – indicating Prop. U is in force. "It's not physically possible to build growth there, because Zev has blocked it with Proposition U."

But that's not true. In 2002, under Mayor James Hahn and with virtually no public scrutiny, the City Council watered down Prop. U, creating a new land zone confusingly dubbed "Residential Accessory Services." In such zones, projects can be doubled in size if the developer merely agrees to mix housing units with businesses. In another nod to developers, and calling it "smart growth," the council decided that projects with "affordable" housing can be one-third bigger than permitted if they are within 1,500 feet of a bus stop. Together with SB 1818, much of L.A. is now open to multistory construction. (Click here to download PDF of the map.)

To Blumenfeld, those neighborhoods are underutilized "transit corridors." She also denies Yaroslavsky's charge that Fairfax — as well as other stable villages that make up L.A. — is threatened by SB 1818. Developers still find that "land is expensive, lumber is expensive. The [state] law's been in effect for almost three years, but we've not seen any projects on Fairfax."

"So why write these incentives into the new law?" Yaroslavsky retorts. "The city can't keep talking out of both sides of its mouth."

City leaders first learned of plans to mandate denser California cities in a 1996 memo from the State Department of Housing and Community Development. But Yaroslavsky insists he didn't hear about SB 1818 until last summer, when a mole from the city's Planning Department leaked him a draft of the plan for apartment buildings 35 percent bigger than allowed.

"We were appalled," Yaroslavsky says. So the county supervisor again became the town crier. Pro-density groups begrudgingly credit him for pressuring the council to ban these higher buildings next to or across alleys from RI (single family) homes. But other neighborhood protections, such as a lengthy appeals process, were stripped away.

"This all comes from the stupidity of doing these things behind closed doors," Yaroslavsky says. "Now everybody's weighing in. They didn't know what was going on. Now the Silver Lake Neighborhood Council is picking this all apart, and rightly so."

On hearing Yaroslavsky's version, Blumenfeld rolls her eyes.

"There's really no secret plans here," she says. "We don't do anything in this department that's not superpublic and transparent, and nobody knows better than Zev the steps we go through to adopt an ordinance. There were many, many public hearings."

She cites a series of committee meetings, describing them as poorly attended: "Wow! A plan to implement SB 1818! Let me give up my Saturday to go to this!"

In fact, Angelenos don't have a clue what's been happening, or what's coming. In the 32 months since Villaraigosa was elected, for example, the *Los Angeles Times* and the *Daily News* have written only four stories about a plan to allow apartments without parking in order to squeeze in more units. The phrase "SB 1818" has appeared in just 14 articles. The mayor's czar of zoning variances, Michael LoGrande, is virtually unknown — mentioned just six times in Los Angeles print media in the past two years. And the "superpublic" hearings cited by Blumenfeld were attended almost exclusively by lobbyists, a few activists and the occasional curious neighbor.

"There should be a debate!" Yaroslavsky wheezes, a victim of allergies, dabbing his nose with a handkerchief.

"The proponents of the density hawks, including the director of the Planning Department, and the real estate industry, and the L.A. Area Chamber of Commerce — they had the audacity to say that they negotiated the plan [with homeowners]. Not true, there wasn't one neighborhood group that knew about it!"

Now meet Gail Goldberg, Blumenfeld's boss and philosophical cousin, and the other object of Yaroslavsky's discontent. On a Friday at 8:20 a.m., I step out of a City Hall elevator on the fifth floor, walking down an imposing corridor. There stand the double doors to the offices of the director of the Planning Department, Goldberg.

More than 30 feet back from the unattended public counter sits Goldberg's assistant, Lily Quan, the only person in the vast reception area at that hour. She looks up. "May I help you?"

"I'm with the *L.A. Weekly*, and I just got stood up by the planning director for an 8 a.m. meeting at Starbucks."

Quan offers an expression of withering condescension. "I think you're confused," she says slowly, as if to a mentally impaired person. "Your meeting is scheduled for next Friday."

"I have a copy of the e-mail, sent by you, confirming the meeting for this morning."

Quan consults her computer, tapping buttons.

"Looks like we made a mistake," she concedes. "Sorry ... She's got a 9 a.m. appointment, so you'd only have half an hour."

"That," I say, "would be a good start," pondering how the Planning Department could have so much trouble planning a cup of coffee.

At 8:35, Quan ushers me down a small hallway. Goldberg graciously rises from the seat behind her desk to apologize, greeting me in a manner that is both warm and -- since we are in City Hall -- imperious.

"So what have I read of yours lately?" she asks.

"You would probably have a better idea of that than me."

"What I mean is, what have you written that might have annoyed me?"

In fact, I had recently authored a piece on the city's "Parking Reduction Ordinance," which lets developers of apartments and condos near train stations and bus stops get a waiver from the city's minimum parking-space requirements. In a radical departure, the city could allow big apartments to be constructed without parking spaces. The developer need only prove he is providing a vaguely imagined "alternative means" of transportation -- potentially, anything from carpool programs to bicycle racks to walking canes and foot balm -- that a local city-zoning administrator feels is a "viable alternative" to driving.

The "public-transit promoting" Parking Reduction Ordinance is not going over well with some of the very few Los Angeles residents who have heard of it.

The Silver Lake Neighborhood Council says that, among other things, the reduced-parking ordinance will eventually punish the working poor (who actually use public transit), helping to prod them out of neighborhoods where hipster, "transit-oriented" projects lacking parking would almost inevitably be paired with luxury rentals.

Developer Gilmore insists the parking-reduction waiver isn't aimed at "what's happening in Silver Lake today, but what it will look like in 20 to 30 years." Yaroslavsky responds, "I don't think Gail [Goldberg] has a clue as to the impact of what these 'incentives' will be."

When residents of Los Angeles hammered out 35 Community Plans to direct what should happen in the city's loosely connected villages, those plans did not include luxury apartments without parking or skyscraper apartments looming over neighborhoods.

"Good planning has to lead, not follow," Goldberg explains, of City Hall's quiet push to amend those Community Plans, a process she insists will emphasize the need to work together. "We need to get in front of the process with Community Plans, which we're creating right now."

Twenty years ago, Robin Kramer, then chief of staff to Eastside City Councilman Richard Alatorre, told *The New York Times*, in an almost identical comment, that the key question was how City Hall could "best manage the growth and lead it." Now Kramer is back, again as a chief of staff – but this time to Villaraigosa.

At 9 a.m., as Goldberg is preparing to greet members of the Downtown Planning Commission, she advises me of my civic responsibility as a journalist regarding the density debate:

"All I ask is that you don't scare people into paralysis."

The apartment-construction binge began in 2002 but dates to 1993, when the Planning Department, under newly elected Mayor Richard Riordan, rolled out the new-housing component of its General Plan. Although dozens of Community Plans attempted to mute its more dire effects, the General Plan claimed that two-thirds of the city – already the fourth most densely populated in the nation – was "underutilized."

Many found the General Plan laughable and unlikely to ever unfold. But then demographers from California's State Department of Finance and the Southern California Association of Governments (SCAG) prophesied that an inevitable county population increase of 2.5 million people by 2025 had to be met in Los Angeles by the building of far more housing.

That's when city planners started redesigning the very DNA of Los Angeles.

Goldberg says that SCAG bureaucrats want to see 16,000 new housing units per year – in a city many residents view as already overbuilt and grossly congested. (City Hall listens to SCAG, but some cities are sick of SCAG's density drumbeat. Irvine is involved in a bitter lawsuit against SCAG; Palmdale and La Mirada tried to stop SCAG and lost in court.)

SCAG "population projections" of massive, inevitable growth in L.A. are notoriously unreliable, says demographer James Allen, professor emeritus of geography at California State University Northridge.

"I personally don't put any stake in the accuracy of projections from SCAG or anyone else," Allen says. In his college classes, Allen assigns his students to make such projections – showing them how easy it is to manipulate theoretical circumstances to get whatever "population growth" results they desire.

It's a game, Allen explains, with outcomes "all based on assumptions that can't be known." A crash in the local economy, the subprime mortgage debacle, a flood or earthquake, major job growth in the U.S. South – all can send hundreds of thousands of people to other regions.

"But let's say they're accurate," Yaroslavsky conjectures. "Are we being told that we need to rebuild the entire city to facilitate another 2.5 million people in the next 17 years? Good luck. It's not going to happen – economically or politically ... It's preposterous. The deal is that there are a number of developers who see an opportunity here to make a killing."

The actual growth statistics fly in the face of the luxury-apartment future envisioned by the Villaraigosa administration. The U.S. Census says that between 1990 and 2000, 400,000 more residents fled Los Angeles County than moved in from other states and California counties. And significantly, the people who moved here earn an average of \$3,000 less per year than the 400,000 who fled.

Yet the population is expanding, and the two key causes are illegal immigration and the high birth rate among the poor and working poor. Local Latino birth rates are driving it, and in Los Angeles, that means families with a median annual income circling \$25,000.

Who is going to snap up thousands of luxury apartments on the drawing boards, at \$2,500 a month? A few foreign nationals from Stuttgart and London, Dubai and Moscow? Even if Villaraigosa's team comes up with 16,000 new units per year in order to please land speculators, developers and bureaucrats at SCAG, it's highly unlikely that L.A.'s new residents -- not hipsters but low-income families -- could afford them.

"There's never been the market to support what they've been building," says Joel Kotkin, who notes that L.A. planners mistakenly believe they are creating the next New York or Chicago, when, Kotkin believes, it's more likely they are erecting a dense new Third World city.

There are, to be sure, arguments supporting high-density cities. Peter Gleick, director of Pacific Institute, an ecology-research foundation in San Francisco, says, "In single-family suburban homes, more than half the tap-water supply is spent on lawns and gardens. ... With the expected radical decline in the Sierra Nevada snowpacks, cities like Los Angeles and Las Vegas cannot continue to grow in the 21st century the way they did in the 20th."

But density also breeds much more crime -- something "density hawks" never mention. A report by the National Center for Policy Analysis says crime rates in dense cities outpace by up to 20 percent the crime in more sprawling, spacious cities. So-called "smart growth" Portland and Seattle lead the pack in property crime.

These colliding issues -- of water usage, crime peaks, birth rates, developer greed (or hardship, according to Gilmore), statistical manipulation and City Hall transparency -- could and should be the subject of public debate in Los Angeles.

But they're not.

Think of the current process as the urban-planning equivalent of termites gnawing away at the city's crossbeams. Each time a zoning-change application is considered, it must be heard in public in front of a volunteer-committee of a regional Planning Commission -- all political appointees of Villaraigosa.

The Planning Department is supposed to send notifications to the relevant "certified neighborhood council," and to all neighbors within 500 feet of the property at issue, or to post a notice in any local newspaper. And in addition, the agenda for all such hearings is posted at www.cityplanning.lacity.org.

That's how the Planning Department claims to be engaging the public. But a wall of silence between the public and the city is built into the incremental nature of the process.

Few residents know what to make of the strangely worded notifications they suddenly receive in the mail – just 10 days before a hearing. (Some notices, as in the Lake Balboa district in the Valley, arrived after a key hearing had occurred.) There's very rarely media interest, and in a city where few residents know the name of their city-council member (Los Angeles City Council districts contain about 280,000 people, the largest such districts – and many say the least responsive – in the U.S.), fighting City Hall is daunting.

Planning Commission hearings are held during business hours, handy for developers but not for residents. When no residents appear to oppose a developer's plan, the regional commissioners – often local residents, theoretically more invested in the area's welfare than downtown planners – usually go along with the developer. Usually, after the developer completes an environmental report and addresses a few problems, the zoning change or variance is granted.

The Woodland Hills-Warner Neighborhood Council's chairperson, Joyce Pearson, wrote this warning in a recent newsletter to her Valley area: "The public often waits until it's too late to do anything to enhance major developments or to impact any potential problems that may be caused."

Yet the public isn't "waiting," as Pearson puts it. The public is out of the loop – often until the demolition fence is already up.

That seems fine with City Hall. With a few pockets of 1980s-style activism developing at the feistier monthly neighborhood-council meetings in Los Angeles, City Hall has begun responding – by attacking the locals.

For example, the often-clamoring North Hills West Neighborhood Council, in a far-flung Valley area that was a hotbed of secession-movement sentiment, is so distrustful of City Hall that its members attend city Planning Commission hearings en masse. The North Hills group has defeated a series of high-density housing proposals on its rustic fields and meadows.

For their trouble, City Hall came down hard on these citizens. According to homeowner Peggy Burgess, the Neighborhood Council was subjected to an official barrage of blistering, trumped-up charges – even including racism – that originated from a cadre of pro-growthers. The accusers were allowed to file complaints anonymously with the city's somewhat ironically named Department of Neighborhood Empowerment (DONE).

Burgess says that, during a vitriolic December meeting, Manuel Durazo, a city project coordinator for DONE, conceded that he simply forwarded the ugly charges to the Board of Neighborhood Commissioners, and official "decertification" proceedings of the Neighborhood Council got under way – with no city official bothering to investigate the accusations, or allowing the neighborhood council to refute them.

Durazo finally admitted the charges were unsubstantiated. He sent out a letter congratulating the Neighborhood Council on its victory – adding that he'd requested that the city transfer him to a different district.

Since 2005, Villaraigosa has been tirelessly cheerleading for a taller city. He has often pointed to the frenzied construction of mixed-use buildings (apartments, shops and offices) as proof that he is probusiness.

In fact, some counter that L.A. is antibusiness, a city that drives big and small companies to neighboring Pasadena, Calabasas, Glendale, Culver City and elsewhere, earning itself special attention each year in the Kosmont Report on urban areas with backward business policies.

Villaraigosa appears to believe that edifices equate with business, and that the buildings themselves will lure in an educated work force and quality companies. "If we're not creating wealth, if we're not bringing in investment, if the official bird of Los Angeles isn't the crane, then we won't be able to do all the good things we would like to do for our people," Villaraigosa told the *Los Angeles Business Journal* in 2006.

His narrow emphasis on high-density housing construction might cost L.A. if a recession has really arrived. "The burst housing bubble has hit us pretty hard," says Joseph Linton, policy associate for Livable Spaces, a nonprofit developer that's completed mixed-income, transit-oriented residences in Long Beach and Lincoln Heights. The affordable units are selling, "but our market-rate units are going very slowly." Adds Gary Toebben, president of the L.A. Area Chamber of Commerce, "New market-rate housing is just not moving."

Nonetheless, Blumenfeld imagines dense urban villages built around subway stations, populated by the young and old, neighbors who shop on the ground floor and use rail or buses to get about.

Gail Goldberg looks out across the city and imagines residents and developers working side by side, with her department's firm leadership dedicated to the integrity of neighborhoods.

But from his County Hall of Administration office just a few blocks away, Yaroslavsky, his voice rumbling in a basso profundo, waves off Blumenfeld's and Goldberg's utopian plans: "I watched the demolition derby in this town 20 years ago ... I have a platform. I have some credibility. I have something to say. [But] I shouldn't be the one to say it."

Also read Julia Cooke's article on urban similarities between L.A. and Mexico City.

And What's Smart About Smart Growth? by David Zahniser

*Editor's Note: This story incorrectly stated that Los Angeles County Supervisor Zev Yaroslavsky fought federal funding for subways after a methane explosion in 1985. In fact, Yaroslavsky called for more study of methane gas dangers while Congressman Henry Waxman championed the federal ban. Later, Yaroslavsky led a ballot effort that prevented local sales taxes from being used on the subway being tunneled under Hollywood, allowing that tax money to go to other transit projects. This story was corrected Feb. 29.

Contact: Steven Leigh Morris Follow: L.A. Weekly L.A. Weekly

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Exhibit 4



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R 0 5 - 0 3 1 7

SEP 1 2 2005

REPORT RE:

**AN ORDINANCE AMENDING THE LOS ANGELES ADMINISTRATIVE
AND MUNICIPAL CODES TO MAKE VARIOUS TECHNICAL AND
CLARIFYING CHANGES**

The Honorable Los Angeles City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File Nos. 01-0760 and 99-1800
CPC Case No. 99-0435 - not transmitted

Honorable Members:

We are transmitting to you for your action, approved as to form and legality, a final draft Ordinance to amend the Los Angeles Administrative and Municipal Codes to make various technical and clarifying changes.

Charter Findings

Pursuant to Charter Section 559, the Director of Planning has approved this draft of ordinance on behalf of the City Planning Commission and recommended that the City Council adopt it. Should the City Council adopt this ordinance, it may comply with the provisions of Charter Section 558 by either adopting the findings of the Director of Planning as set forth in his report dated August 23, 2005, or by making its own findings.

CEQA Findings

Regarding a finding pursuant to the California Environmental Quality Act (CEQA), the Department of Planning determined that the proposed ordinance is exempt from CEQA, pursuant to Article II, Section 2, Subsection (m) of the City's CEQA Guidelines

Honorable Los Angeles City Council
of the City of Los Angeles
Page 2

because enactment of this ordinance constitutes enabling legislation and will have no impact on the physical environment. If the City Council concurs, it must make this finding prior to or concurrent with its action on the ordinance.

Summary of Ordinance Provisions

The draft of ordinance amends various provisions of the Los Angeles Administrative and Municipal Codes to correct typographical errors, and to make clarifying and technical changes.

Council Rule 38 Referral

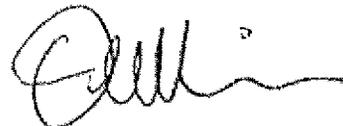
A copy of the final draft ordinance was sent, pursuant to Council Rule 38, to the Departments of Building and Safety and Housing. The Departments have indicated that they have no objections to the draft ordinance.

If you have any questions, feel free to contact Assistant City Attorney Sharon Siedorf Cardenas at (213) 978-8235. She or another member of this staff will be available to answer any questions you may have when you consider this matter.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM/SSC:pj(114872)
Transmittal

ORDINANCE NO. _____

An ordinance amending Sections 4.91 and 4.111.1 and repealing Section 4.111.3 of the Los Angeles Administrative Code and repealing Section 11.5.8, adding Sections 11.5.9 and amending Sections 11.00, 11.5.6, 11.5.7, 12.03, 12.04, 12.09, 12.16, 12.21, 12.21.3, 12.21.5, 12.22, 12.24, 12.26, 12.27, 12.32, 12.36, 13.01, 13.02, 13.10, 14.00, 16.05, 16.50, 17.03, 17.06, 17.50, 17.52, 17.54, 41.50, 91.6218.2, Table 62-C of Division 62 of Article 1 of Chapter IX, 91.6305, 91.8607, 97.0201, 151.09, and 152.06 of the Los Angeles Municipal Code to make various technical and clarifying changes.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection (f) of Section 4.91 of the Los Angeles Administrative Code is amended to read:

(f) Retroactive Salary Adjustments. Step adjustments will be recomputed, if necessary, pursuant to the provisions for any retroactive salary ordinance (for non-represented employees) or Council-approved MOU (for represented employees).

Sec. 2. Section 4.111.1 of the Los Angeles Administrative Code is amended by adding a second unnumbered paragraph to read:

A court of competent jurisdiction is defined as a court within the county in which the employee resides. If the place of appearance is outside the county of residence, it must be within 150 miles of the employees residence.

Sec. 3. Section 4.111.3 of the Los Angeles Administrative Code is repealed.

Sec. 4. The first paragraph of Subsection (l) of Section 11.00 of the Los Angeles Municipal Code is amended to read:

(l) In addition to any other remedy or penalty provided by this Code, any violation of any provision of this Code is declared to be a public nuisance and may be abated by the City or by the City Attorney on behalf of the people of the State of California as a nuisance by means of a restraining order, injunction or any other order or judgment in law or equity issued by a court of competent jurisdiction. The City or the City Attorney, on behalf of the people of the State of California, may seek injunctive relief to enjoin violations of, or to compel compliance with, the provisions of this Code or seek any other relief or remedy available at law or equity.

Sec. 5. The second and third unnumbered paragraphs of Subsection E of Section 11.5.6 of the Los Angeles Municipal Code are amended to read:

After the close of the public hearing, the Council may do either of the following:

1. Approve or disapprove the Plan amendment in whole or in part in accordance with Charter Section 555(e); or
2. Propose changes to the Plan amendment.

The Council shall take either of these actions within 75 days after receiving the recommendation of the Mayor, or within 75 days after the expiration of the Mayor's time to act if the Mayor has not made a timely recommendation. The failure of the Council to act within that 75-day period shall constitute a disapproval of the Plan amendment.

Sec. 6. Paragraph (a) of Subdivision 2 of Subsection C of Section 11.5.7 of the Los Angeles Municipal Code is amended to read:

(a) That the project substantially complies with the applicable regulations, findings, standards and provisions of the specific plan; and

Sec. 7. Section 11.5.8 of the Los Angeles Municipal Code is repealed.

Sec. 8. Article 1.5 of Chapter 1 of the Los Angeles Municipal Code is amended by adding a new Section 11.5.9 to read:

Sec. 11.5.9. WITHDRAWAL OF APPLICATION.

A. Procedures. At any time before the initial decision-maker or appellate body on appeal makes a final decision on an application pursuant to the Code sections listed in Subsection C below, the applicant may withdraw the application.

B. Limitations. The withdrawal of the application must be in writing and does not require the decision-maker to concur. The withdrawal of the application shall be permanent and any associated authorization shall be void.

C. Code Sections. This section applies to applications filed pursuant to Sections 11.5.6, 11.5.7, 12.20.2, 12.20.3, 12.21, 12.22, 12.23, 12.24, 12.25, 12.26, 12.27, 12.28, 12.30, 12.32, 12.36, 12.39, 12.50, 13.01 H, 14.00, 14.5.6, 16.01, 16.02, 16.04, 16.05, 16.50 and Articles 7 and 8 of Chapter 1 of this Code.

Sec. 9. Lettered paragraphs (a) and (f) of the definition of Accessory Use in Section 12.03 of the Los Angeles Municipal Code are amended to read:

(a) all the historic vehicles and parts maintained in outdoor storage, whether currently licensed or unlicensed, or whether operable or inoperable constitute an Historic Vehicle Collection;

(f) plans for the maintenance of the Historic Vehicle Collection have been submitted to and approved by the Zoning Administrator in accordance with the procedures in Section 12.28 C 1, 2 and 3 and subject to the same fees as in Section 19.01 E for relief from fence height limitation.

Sec. 10. The fourth unnumbered paragraph of the definition of Accessory Use in Section 12.03 of the Los Angeles Municipal Code is amended to read:

An approval of an Historic Vehicle Collection and any use allowed by this Code shall be subject to conditions not in conflict with this Code which the Zoning Administrator may deem necessary or advisable to impose in order to protect the peace and quiet of occupants of contiguous property.

Sec. 11. Subsection C of Section 12.04 of the Los Angeles Municipal Code is amended to read:

C. In order to regulate more adequately and restrict the height and floor area of buildings and structures, each lot shall include a height district designation. Height district designations shall be numbered from 1 to 4, CRA 1 to 4, EZ 1 to 4, and CSA 1 to 4 and shall regulate the height or floor area of buildings and structures as provided in Sections 12.21.1, 12.21.2, 12.21.3, 12.21.4 and 12.21.5. The height districts and their boundaries are shown on the Zoning Map by a combination of zone symbols and height district number markings, e.g., R2-1, C2-2, M1-3, C1-CRA1, M2-EZ2, C2-CSA3, etc. Where a lot is located in more than one height district, the applicable zone symbol designations shall be separated by a slash mark, e.g., R2-CRA/CSA, C2-EZ1/CRA2, etc. The symbol "HD" preceding height district number markings, when shown on the Zoning Map or used in a zoning ordinance, is an abbreviation for the words "height district" and refers to height districts. The height districts for the "CW" Zone are the height districts shown in Section 6 of the Central City West Specific Plan. The height districts for the "ADP" Zone are height districts shown in Section 7 of the Alameda District Specific Plan. The height districts for the "WC" Zone are height districts shown in Section 7 of the Warner Center Specific Plan. The height districts for the "LASED" Zone are the height districts shown on Section 10 of the Los Angeles Sports and Entertainment District Specific Plan.

Sec. 12. Subdivision 4 of Subsection C of Section 12.09 of the Los Angeles Municipal Code is amended to read:

4. **Lot Area** – Every lot shall have a minimum width of 50 feet and a minimum area of 5,000 square feet. The minimum lot area per dwelling unit shall be 2,500 square feet, except for apartment houses, boarding or rooming houses, and multiple dwellings on lots having a side lot line adjoining a lot in a commercial or industrial zone as provided for in Subsection A of this section, which uses shall comply with the lot area per dwelling unit and guest room regulations of the RD1.5 Zone.

Provided, that where a lot has a width of less than 50 feet or an area of less than 5,000 square feet and was held under separate ownership or was of record at the time this article became effective, the lot may be occupied by any use permitted in this section, except those uses requiring more than 5,000 square feet of lot area. In no case, however, shall a two-family dwelling or two-family dwellings be allowed on a lot with an area of less than 4,000 square feet.

Exceptions to area regulations are provided for in Section 12.22 C of this Code.

Sec. 13. Paragraph (a) of Subdivision 2 of Subsection A of Section 12.16 of the Los Angeles Municipal Code is amended to read:

(a) The following amusement enterprises:

- (1) boxing arena;
- (2) games of skill and science;
- (3) merry-go-round, ferris wheel or carousel;
- (4) penny arcade;
- (5) shooting gallery;
- (6) skating rink;
- (7) Strip tease show. This use shall include an adult cabaret, as defined in Section 12.70 B of this Code;
- (8) billiard or pool hall;

(9) bowling alley;

(10) indoor swap meets, unless authorized pursuant to the provisions of Section 12.24 W 42; and

(11) other similar uses, but not including the conducting of any game of bingo authorized pursuant to the provisions of Article 4.5 of Chapter IV of this Code.

Sec. 14. Paragraph (p) of Subdivision 2 of Subsection A of Section 12.16 of the Los Angeles Municipal Code is amended to read:

(p) Gymnasiums, health clubs and other similar uses.

Sec. 15. Subdivision 2 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended to read:

2. Other Use and Yard Determinations by the Zoning Administrator.

The Zoning Administrator shall have authority to determine other uses, in addition to those specifically listed in this article, which may be permitted in each of the various zones, when in his or her judgment, the other uses are similar to and no more objectionable to the public welfare than those listed.

The Zoning Administrator shall also have authority to interpret zoning regulations when the meaning of the regulation is not clear, either in general or as it applies to a specific property or situation.

Anyone aggrieved by the Zoning Administrator's determination may file an appeal within 15 days from the issuance of the written decision.

The City Planning Commission shall hear appeals on Zoning Administrator Interpretations where there is no site specific issue. The Area Planning Commission shall hear appeals on site specific Zoning Administrator Interpretations. In no instance, however, shall the Zoning Administrator determine, nor shall these regulations be so interpreted, that a use may be permitted in a zone when that use is specifically listed as first permissible in a less restrictive zone; e.g., a use listed in the C2 Zone shall not be permitted in the C1 Zone, or in a more restricted designation associated with a Pedestrian Oriented District or Specific Plan.

The Zoning Administrator shall also have authority to adopt general interpretations determining the proper application of the yard regulations to groups of lots located in hillside districts or affected by common problems.

Sec. 16. Paragraph (c) of Subdivision 4 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended to read:

(c) For Commercial and Industrial Buildings. Except as otherwise provided in Subparagraphs (1) through and including (7) below, there shall be at least one automobile parking space for each 500 square feet of combined floor area contained within all the office, business, commercial, research and development buildings, and manufacturing or industrial buildings on any lot.

Sec. 17. Sub-subparagraphs 3 and 6 of Subparagraph (3) of Paragraph (x) of Subdivision 4 of Subsection A of Section 12.21 of the Los Angeles Municipal Code are amended to read:

3. Wilshire Center/Koreatown Recovery Redevelopment Project Area, delineated by Ordinance No. 170806;

6. Any Enterprise Zone as that term is defined in Section 12.21.4 of this Code.

Sec. 18. Sub-subparagraphs 7, 8, 9 and 10 of Subparagraph (3) of Paragraph (x) of Subdivision 4 of Subsection A of Section 12.21 of the Los Angeles Municipal Code are repealed.

Sec. 19. The Exception of Subparagraph (k) of Subdivision 5 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended to read:

EXCEPTION:

Lights in compliance with Sections 91.6305 and 91.8607 of the Code.

All parking areas and garages provided for three or more dwelling units or guest rooms shall have an average surface illumination of not less than 0.2 footcandles (2.15 lx).

Sec. 20. Subdivision 11 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended to read:

11. Tennis or Paddle Tennis Courts. A tennis or paddle tennis court, constructed as an accessory use to the primary residential use on the same lot in the A or R Zones, shall comply with specific construction and operation standards as may be established by the Zoning Administrator pursuant to Subsection C 4 of this section and shall be located as required in Subsection C 5 of this section.

Sec. 21. Paragraph (i) of Subdivision 16 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended to read:

(i) Showers and lockers shall be provided as required by Section 91.6307 of this Code.

Sec. 22. Subparagraph (2) of Paragraph (b) of Subdivision 17 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended to read:

(2) For any main building on a lot in the RA, RE, RS, R1, and RD Zones, the above required side yard or the side yard required by the zone in which the lot is located, whichever requirement is greater, shall be increased one foot for each increment of ten feet or fraction thereof above the first 18 feet of height of the main building.

Sec. 23. Sub-Subparagraph (ii) of Subparagraph (6) of Paragraph (a) of Subdivision 20 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended to read:

(ii) Pursuant to Section 12.24 W 49 of this Code, the decision-maker may allow use of an alternate detailed plan and specifications for landscaping and screening, including plantings, fences, walls, sign and structural applications, manufactured devices and other features designed to screen, camouflage and buffer antennas, poles and accessory uses. The antenna and supporting structure or monopole shall be of a design and treated with an architectural material so that it is camouflaged to resemble a tree with a single trunk and branches on its upper part, or shall be designed using other similar stealth techniques.

Sec. 24. The Maps in Section 12.21.3 of the Los Angeles Municipal Code are deleted.

Sec. 25. The first unnumbered paragraph of Section 12.21.5 of the Los Angeles Municipal Code is amended to read:

Within the boundaries of the Centers Study areas designated on Maps numbered 1 through 3 and 5 through 28 in Council File Nos. 86-0958, 86-0957, 85-0193 and 84-1554, the height district limitations set forth below in Subsections A through F shall apply.

Sec. 26. The Maps in Section 12.21.5 of the Los Angeles Municipal Code are deleted.

Sec. 27. Sub-subparagraph (i) of Subparagraph (10) of Paragraph (a) of Subdivision 23 of Subsection A of Section 12.22 of the Los Angeles Municipal Code is amended to read:

(i) Landscaping - Setback. A landscaped, planted area having a minimum inside width of five feet shall be required along all street frontages of the lot and on the perimeters of all parking areas of the lot or lots which abut a residential zone or use.

Notwithstanding the above, in the Downtown Business District as defined in Section 12.21 A 4 (i) of this Code, a landscape (planted) area having a minimum inside width of five feet shall be required on the perimeters of all parking areas of the lot which abut a residential zone or use.

Sec. 28. Subdivision 10 of Subsection C of Section 12.22 of the Los Angeles Municipal code is amended to read:

10. Rear Yard - Includes One-Half Alley. Except in the RS, R1, RU, RZ, RMP, and R2 Zones, in computing the depth of a rear yard where the rear yard opens onto an alley or in the RW Zone onto a court of not more than 30 feet in width; one-half the width of the alley or court may be assumed to be a portion of the required rear yard.

Sec. 29. The first unnumbered paragraph of Paragraph (b) of Subdivision 16 of Subsection X of Section 12.24 of the Los Angeles Municipal Code is amended to read:

(b) Procedures. An application pursuant to this subdivision involving a nonconforming use shall follow the procedures for variances set forth in Section 12.27 C of this Code, except to the extent an additional appeal is permitted to City Council. The Zoning Administrator may waive the public hearing if the applicant has secured the approval for the reconstruction from the owners of all properties abutting, across the street or alley from, or having a common corner with the subject property. If that approval is obtained from the surrounding property owners, the Zoning Administrator may waive the public hearing if the administrator makes the following written findings:

Sec. 30. The first sentence of Paragraph (a) of Subdivision 1 of Subsection E of Section 12.26 is amended by breaking it into two sentences to read:

(a) A certificate of occupancy for a new building or the enlargement or alteration of an existing building shall be applied for coincident with the application for a building permit. The certificate of occupancy shall be issued after the request for it has been made in writing to the Superintendent of Building

after the erection, enlargement or alteration of the building or part of the building has been completed in conformity with the provisions of these regulations.

Sec. 31. Subsection J of Section 12.27 of the Los Angeles Municipal Code is amended to read:

J. Time for Appellate Decision. The Area Planning Commission shall make its decision within 75 days after the expiration of the appeal period. The 75 day time limit to act on an appeal may be extended by mutual written consent of the applicant and the Area Planning Commission. If the Area Planning Commission fails to act within this time limit, the action of the Zoning Administrator on the matter shall be final, except as provided in Subsection N below.

Sec. 32. The first sentence of Subsection S of Section 12.27 of the Los Angeles Municipal Code is amended to read:

If the use authorized by any variance granted by ordinance, or by decision of the Zoning Administrator, the Area Planning Commission, City Planning Commission or the City Council is or has been abandoned or discontinued for a period of six months, or the conditions of the variance have not been complied with, the Director, upon knowledge of this fact, may give notice to the record owner or lessee of the real property affected to appear at a time and place fixed by the Director and show cause why the ordinance or decision granting the variance should not be repealed or rescinded, as the case may be.

Sec. 33. Paragraph (e) of Subdivision 2 of Subsection G of Section 12.32 of the Los Angeles Municipal Code is amended to read:

(e) Certificate of Occupancy. Property shall remain in a temporary (Q) Qualified classification for the period of time provided in Paragraph (f) of this subsection or until a Certificate of Occupancy is issued by the Superintendent of Building for one or more of the uses first permitted by the Qualified zone ordinance. The Superintendent of Building shall notify the Director of the issuance of the Certificate of Occupancy. Once the Certificate of Occupancy is issued: (i) the (Q) Qualified classification shall no longer be considered temporary; (ii) the parentheses shall be removed from the designation; and (iii) the new zone designation shall become finally effective and shall be placed on the appropriate City records with the symbol "Q" being a permanent part of the symbol designation; for example QR3-1. All applicable limitations and/or standards within the Qualified classification ordinance shall thereafter be considered to apply permanently to the specific uses. The temporary Qualified classification and the accompanying conditions that have become permanent and are shown with brackets shall have the same status as those that have become permanent, but shown with neither parenthesis nor brackets.

Sec. 34. Subparagraph (2) of Paragraph (a) of Subdivision 3 of Subsection Q of Section 12.32 of the Los Angeles Municipal Code is amended to read:

(2) Conditional Approval or Denial. Notwithstanding Subdivision 2 (a) of this subsection, a vesting zone change may be conditioned or denied if the City Planning Commission or the City Council determines:

Sec. 35. Subdivision 1 of Subsection C of Section 12.36 of the Los Angeles Municipal Code is amended to read:

1. Except as provided in Subdivision 2 below, if a project requires at least one quasi-judicial approval and at least one legislative approval, all of the applications shall be considered by the City Planning Commission. The procedures used for consideration of initial decisions and any appeals of all of the required approvals will be those set forth in Section 12.32 B through D. However, if the Commission fails to act on a quasi-judicial application or appeal, which is a part of a multiple approval, then the quasi-judicial action shall be transferred to the City Council without a recommendation for a decision. If a project requires a plan amendment, notwithstanding the time limits set forth in Section 12.32 B through D, the time limit in which the Council must act on all applications shall run from the time the Council receives the Mayor's recommendation or the time for the mayor to act expires.

Sec. 36. The first sentence of Subsection D of Section 12.36 of the Los Angeles Municipal Code is amended to read:

If a project subject to Subsections B or C of this section also requires a tract map or parcel map approval by the Advisory Agency, that subdivision approval and any appeals shall be decided and governed by the rules applicable to subdivision approvals as set forth in Article 7 of this chapter.

Sec. 37. Subsection E of Section 12.36 of the Los Angeles Municipal Code is amended to read:

E. Projects Requiring Multiple Approvals, Including Director Approval. If a project requires more than one approval by the Zoning Administrator and the Area Planning Commission or the City Planning Commission and also requires an approval by the Director, all the applications shall be decided by either the Area Planning Commission or the City Planning Commission, whichever Commission has jurisdiction over at least one of the approvals, as provided in Subsections B, C or D of this section. The procedure used for consideration of initial decisions and any appeals of the required approvals shall be those set forth in Subsections B, C or D of this section. However, if a public benefit approval is combined with a quasi-judicial approval, but neither a legislative nor a subdivision approval is also required, then the initial decision:

maker shall be the City Planning Commission and the appellate body shall be the City Council.

Sec. 38. The definition of "Los Angeles City Oil Field Area" in Subsection B of Section 13.01 of the Los Angeles Municipal Code is amended to read:

"Los Angeles City Oil Field Area" shall mean all land in the City within the areas identified on the maps in Ordinance No. 156,166 located in Council File No. 80-3951 and shall include all oil producing zones beneath those areas but no deeper than the third zone beneath the surface of the earth.

Sec. 39. The Maps in Subdivision 4 of Subsection D of Section 13.01 of the Los Angeles Municipal Code are deleted.

Sec. 40. Subsection D of Section 13.02 of the Los Angeles Municipal Code is amended to read:

D. Other Districts. In addition to the districts established by Subsection C of this section, other districts within which animal slaughtering is permitted and the conditions applying thereto shall be subject to the approval of development plans by the Administrator.

Sec. 41. Subdivision 1 of Subsection D of Section 13.02 of the Los Angeles Municipal Code is deleted.

Sec. 42. Subsection B of Section 13.10 of the Los Angeles Municipal Code is amended to read:

B. Establishment of Districts. The procedures set forth in Section 12.32 S shall be followed except that each Fence Height District (FH) shall include only lots which are in residential zones, and shall not include lots which are in Hillside Areas, in the Coastal Zone, in Historic Preservation Overlay Zones, or in Specific Plan Areas.

Sec. 43. Subparagraph (13) of Paragraph (a) of Subdivision 2 of Subsection A of Section 14.00 of the Los Angeles Municipal Code is amended to read:

(13) A solid, decorative, masonry or wrought iron wall or fence at least six feet in height, or the maximum height permitted by the zone, whichever is less. The wall or fence encircles the periphery of the property and does not extend into the required front yard setback; and

Sec. 44. Subdivision 2 of Subsection D of Section 16.05 of the Los Angeles Municipal Code is amended to read:

2. Any development project with a still-valid discretionary approval, including but not limited to those listed in Subsection B 2 of this section, shall be exempt from site plan review only if the applicable decision-making body determines in writing that the prior discretionary approval, and the required environmental review, considered significant aspects of the approved project's design (such as, but not limited to, building location, height, density, use, parking, access) and that the existing environmental documentation under the California Environmental Quality Act is adequate for the issuance of the present permit in light of the conditions specified in Section 21166 of the California Public Resources Code. The Department of City Planning may require supplements to the environmental documentation to maintain its currentness. The Director is authorized to establish procedures to process determinations required under this subdivision.

Sec. 45. The second unnumbered paragraph of Subdivision 5 of Subsection E of Section 16.50 of the Los Angeles Municipal Code is amended to read:

An applicant requesting approval of a proposed modification to a project shall do so in writing. The request shall include an illustrated description of the proposed modification and a narrative justification. Written proof that a modification is required by a public agency shall be submitted with the request. Copies of all materials submitted in connection with the request shall be transmitted to the design review board for its information at the time the request is submitted to the Planning Department. There shall be no fee for a review of a modification required by a public agency. An applicant may also request a minor modification which is not required by a public agency. In that case, a fee shall be paid pursuant to Subdivision 2 (e) of this subsection.

Sec. 46. The sixth unnumbered paragraph of Subsection A of Section 17.03 of the Los Angeles Municipal Code is amended to read:

If the final decision-maker imposes a condition as part of an action on a related application that differs from a condition of approval on a tentative tract map, then the Advisory Agency shall have the authority to make the tract map conditions consistent with the final decision-maker's action.

Sec. 47. Subdivisions 3, 4 and 5 of Subsection A of Section 17.06 of the Los Angeles Municipal Code are amended to read:

3. Appeal to the Appeal Board. The subdivider, the Mayor, any member of the City Council, or any other interested person adversely affected by the proposed subdivision may appeal any action of the Advisory Agency with respect to the tentative map or the kind, nature or extent of the improvement required to the Appeal Board.

Appeals to the Appeal Board shall be filed in duplicate, in a public office of the Department of City Planning on forms provided for that purpose within ten days of the date of mailing of the written decision of the Advisory Agency and shall be accompanied by the fee required in Section 19.02 of this Code. No appeal shall be considered filed until the form has been properly completed and all information required by it has been submitted. The completed appeal form and file shall then immediately be transmitted to the Appeal Board Secretary for a public hearing before the Appeal Board.

The Appeal Board, upon notice to the subdivider, the appellant and the Advisory Agency, shall hear the appeal within 30 days after it is filed, unless the subdivider consents to an extension of time pursuant to Subdivision 5 of this subsection. At the time established for the hearing, the Appeal Board shall hear the testimony of the subdivider, the appellant, the Advisory Agency and any witnesses on their behalf. The Appeal Board may also hear the testimony of other competent persons with respect to the character of the neighborhood in which the subdivision is to be located, the kind, nature and extent of improvements, the quality or kinds of development to which the area is best adapted or any other phase of the matter into which the Appeal Board may desire to inquire.

Upon conclusion of the hearing, the Appeal Board shall within ten days render its decision on the appeal based upon the testimony and documents produced before it. It may sustain, modify, reject or overrule any recommendations or ruling of the Advisory Agency, and shall make findings consistent with the provisions of this article and the Subdivision Map Act.

Failure to Act. If at the end of the time limit specified in this subsection or at the end of any extension of time pursuant to subdivision 5 of this subsection, the Appeal Board fails to act, the appeal shall be deemed denied; the decision from which the appeal was taken shall be deemed affirmed and an appeal may be filed and taken to the City Council pursuant to Subdivision 4 below.

4. Appeal to Council. The subdivider, the Mayor, any member of the City Council, the Advisory Agency, or any other interested person adversely affected by the proposed subdivision may appeal any action of the Appeal Board with respect to the tentative map or the kinds, nature or extent of the improvements required by the Appeal Board to the City Council.

Appeals to the City Council shall be filed in duplicate, in a public office of the Department of City Planning on the forms provided for that purpose within ten days of the date of mailing of the written decision of the Appeal Board and shall be accompanied by the fee required in Section 19.02 of this Code. No appeal shall be considered filed until the form has been properly completed and all information required by it has been submitted. The completed appeal form

and file shall then immediately be transmitted to the City Clerk for a public hearing before the City Council.

The City Council shall hear the appeal within 30 days after it is filed, unless the subdivider consents to an extension of time pursuant to Subdivision 5 of this subsection. The Council shall give notice of the hearing to the subdivider, the appellant, the Appeal Board and the Advisory Agency. At the time established for the hearing, the Council or its Committee shall hear the testimony of the subdivider, the appellant, the Advisory Agency and any witnesses on their behalf. The City Council may also hear the testimony of other competent persons with respect to the character of the neighborhood in which the subdivision is to be located, the kind, nature and extent of improvements, the quality or kinds of development to which the area is best adapted or any other phase of the matter into which the City Council may desire to inquire.

Upon conclusion of the hearing, the City Council shall within ten days render its decision on the appeal based upon the testimony and documents produced before it. The City Council may sustain, modify, reject or overrule any recommendations or rulings of the Appeal Board and shall make findings consistent with the provisions of this article and the Subdivision Map Act.

If at the end of the time limit specified in this subsection, or at the end of any extension of time pursuant to Subdivision 5 of this subsection, the City Council fails to act, the appeal shall be deemed denied and the decision from which the appeal was taken shall be deemed affirmed. It shall be the duty of the City Clerk to issue the decision.

5. Extension of Time. Any of the time limits specified in this section may be extended by mutual consent of the subdivider and the Advisory Agency, the Appeal Board or the City Council, as the case may be.

Sec. 48. Subsection F of Section 17.52 of the Los Angeles Municipal Code is deleted.

Sec. 49. Subsection A of Section 17.54 of the Los Angeles Municipal Code is amended to read:

A. Procedure.

Appeal to Appeal Board. An applicant or any other person claiming to be aggrieved by an action or determination of the Advisory Agency with respect to a preliminary Parcel Map, certificate or conditional certificate of compliance pursuant to California Government Code Section 66499.35 or an exemption from the Parcel Map regulations pursuant to Section 17.50 B 3 (c) of this Code may, within a period of 15

days after the date of mailing of the decision of the Advisory Agency, appeal to the Appeal Board for a public hearing. Appeals to the Appeal Board shall be filed in duplicate in a public office of the Department of City Planning on forms provided for that purpose and shall be accompanied by the fees required in Section 19.02 of this Code. The appeal shall not be considered as having been filed unless and until the form has been properly completed and all information required by it has been submitted. The complete appeal form and file shall then immediately be transmitted to the Appeal Board Secretary for hearing before the Appeal Board.

The Appeal Board, upon notice to the applicant, the person claiming to be aggrieved, if any, and the Advisory Agency, shall hear the appeal within 30 days after the expiration of the 15-day appeal period unless the applicant consents to an extension of time pursuant to Subsection B of this section. At the time established for the hearing, the Appeal Board shall hear the testimony of the applicant and witnesses in his/her behalf, the testimony of any aggrieved persons, if there are any, and the testimony of the Advisory Agency and any witnesses on its behalf. The Appeal Board may also hear the testimony of other competent persons respecting the character of the neighborhood in which the division of land is to be located, the kinds, nature and extent of improvements, the quality or kinds of development to which the area is best adapted or any other relevant phase of the matter into which the Appeal Board may desire to inquire.

Upon conclusion of the hearing, the Appeal Board shall within 14 days declare findings based upon the testimony and documents produced before it. It may sustain, modify, reject or overrule any recommendation or ruling of the Advisory Agency and may make findings consistent with applicable provisions of this article.

Failure to Act. If at the end of the time limit specified in this subsection or at the end of any extension of time pursuant to Subsection B of this section, the Appeal Board fails to act, the appeal shall be deemed denied and the decision from which the appeal was taken shall be deemed affirmed.

Sec. 50. Subsection A of Section 41.50 of the Los Angeles Municipal Code is amended by deleting the numbering of paragraphs within this subsection.

Sec. 51. Subsection 2 of Section 91.6218.2 of the Los Angeles Municipal Code is amended to read:

2. No portion of an off-site sign or sign support structure shall be located in that half of a lot located farthest from the street frontage when residentially zoned property is located to the rear of that street frontage.

Sec. 52. Table 62-C of Division 62 of Article 1 of Chapter IX of the City of Los Angeles Municipal Code is amended by changing the heading in the second "Proposed Sign" column from "80 sq. ft. to 330 sq. ft." to read "80 sq. ft. to 300 sq. ft."

Sec. 53. Section 91.6305.1 of the Los Angeles Municipal Code is amended to read:

91.6305.1. Light. All parking garages serving dwelling units or guest rooms shall be provided with an incandescent light bulb (minimum of 60 watts) or other artificial light at a maximum height of eight feet (2438 mm) and shall provide a minimum average surface illumination of 0.2 footcandles (2.15 lx) at floor level. Where, in any specific case, different sections of the Los Angeles Municipal Code specify different requirements, the most restrictive shall govern.

Sec. 54. The second sentence of the first unnumbered paragraph of Section 91.8607 of the Los Angeles Municipal Code is amended to read:

Owners of all lots developed with an apartment house shall provide lights and locks or metal bars or grilles that comply with the provisions of Sections 12.21 A 5 (k), 91.6304.2, 91.6305 and Division 67 of this Code in any of the following circumstances:

Sec. 55. Section 97.0201 of the Los Angeles Municipal Code is amended by adding a second "Exception" to read:

Exception: No license shall be required to operate any Mobile crane with a boom length of 25 feet or more or a maximum rated load capacity of 15,000 pounds or more.

Sec. 56. The second unnumbered paragraph of Subdivision 4 of Subsection C of Section 151.09 of the Los Angeles Municipal Code is amended to read:

Therefore, notwithstanding any provision of this chapter to the contrary, if the termination of tenancy is based on the ground set forth in Subdivision 10 of Subsection A of this section, then the following provisions apply:

Sec. 57. Subsection I of Section 151.09 of the Los Angeles Municipal Code is amended in its entirety to read:

I. If the termination of tenancy was based on the grounds set forth in Subdivisions 8 or 10 of Subsection A of this section, the landlord shall file with the Department a declaration on a form prescribed by the Department within ten calendar days of the re-rental of the rental unit. This declaration shall indicate the address of the rental unit, the date of the re-rental, the amount of rent being charged to the current tenant, the name of the current tenant and such further information as requested by the Department.

Sec. 58. Subsection K of Section 151.09 of the Los Angeles Municipal Code is repealed.

Sec. 59. Subsection E of Section 152.06 of the Los Angeles Municipal Code is amended to read:

E. A landlord may choose to place a tenant's rent and any other required payments in an escrow account. All costs of opening and maintaining the escrow account shall be borne by the landlord. Monies deposited into the escrow account shall be distributed in accordance with guidelines or regulations established by the Commission. The cost of opening an escrow account is not recoverable under Section 151.07 A 1 d of this Code.

(111211)

Sec. 60. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board at the Main Street entrance to Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

FRANK T. MARTINEZ, City Clerk

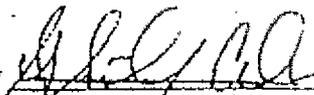
By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

Rockard J. Delgadillo, City Attorney

By 
SHARON SIEDORF CARDENAS
Assistant City Attorney

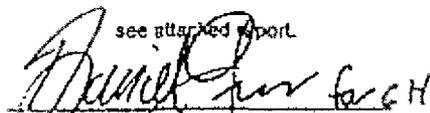
Date AUG 24 2005

File No. CF 99-1800 & 01-0760; CPC 99-0435

Pursuant to Charter Section 559, I approve this ordinance on behalf of the City Planning Commission and recommend it be adopted

August 23, 2005

see attached report.


CON HOWE
Director of Planning

DEPARTMENT OF
CITY PLANNING
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801

CITY PLANNING COMMISSION

MABEL CHANG
PRESIDENT
DAVID L. BURC
VICE-PRESIDENT
JOY ATKINSON
ERNESTO CARDENAS
SUSAN CLINE
MARY GEORGE
MICHAEL MAHDESIAN
BRADLEY MINDLIN
THOMAS L. SCHIFF

GABRIELE WILLIAMS
COMMISSION EXECUTIVE ASSISTANT
(213) 978-1300

August 23, 2005

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

EXECUTIVE OFFICES

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www.lacity.org/PLN

Council File Nos. 01-0760; 99-1800
City Plan Case No. 99-0435

The Honorable Rockard J. Delgadillo
City Attorney
Room 700, City Hall East

Stop 140

Attention: Sharon Sledorf Cardenas
Assistant City Attorney

AN ORDINANCE AMENDING THE LOS ANGELES ADMINISTRATIVE CODE AND MUNICIPAL CODES TO MAKE VARIOUS TECHNICAL AND CLARIFYING CHANGES

On May 26, 2005, your office transmitted a letter and draft ordinance making various technical and clarifying changes to the Administrative and Municipal Codes in conformance with the Council's previous actions stemming from the Charter and incorporating additional technical changes. These additional technical and clarifying changes have been incorporated in to this ordinance to meet the intent of the original City Planning Commission and City Council reports to provide internal consistency. Subsequently, the City Attorney has prepared a revised draft ordinance stemming from the Charter and incorporating additional technical corrections.

Environmental Impact

The subject ordinance was determined to be exempt from the California Environmental Quality Act (CEQA) under Article II, Section 2, Subsection (m) of the Los Angeles City California Environmental Quality Act Guidelines, the adoption this ordinance is enabling legislation and will have no impact on the physical environment.

Findings

1. In accordance with Charter Section 556, that the subject ordinance is in substantial conformance with the purposes, intent and provisions of the City's General Plan. The proposed ordinance makes technical and clarifying changes to the Administrative and Municipal Code provisions. The technical corrections clarifies language or correct errors in order to continue to implement the Charter by creating clear and consistent rules for processing of applications and is an effective means of implementing the City's General Plan and zoning regulations; and

2. In accordance with Charter Section 558 (b) (2) the subject ordinance makes technical and clarifying changes to the Administrative and Municipal Code will have no adverse effect upon the General Plan, specific plans or any other plans being prepared by the Department of City Planning. The subject ordinance does not change the general plan, specific plans or any other plans, rather the ordinance clarifies procedures relating to the applications for entitlements and other matters processed through the Department of City Planning.

Further, the subject ordinance implements the City Wide General Plan Framework Element Economic Development Objective 7.4 "to improve the provision of governmental services, expedite the administrative processing of development applications" in order to "develop and maintain a streamlined development review process to assure the City's competitiveness with the... region" (policy 7.4.1) and objective 7.8, "maintain and improve municipal service levels throughout the city to support current residents quality of life and enable Los Angeles to be competitive when attracting new development"; and

3. In accordance with Charter Section 558 (b) (2), that the subject ordinance is in substantial conformance with the public necessity, convenience, general welfare and good zoning practice in that its provisions, which recognize current development constraints and practices makes and amends the Municipal Code to be more in conformity with them, making it easier for everyone to understand and utilize the provisions of the Code. Further, the ordinance clarifies apparent internal discrepancies and provides consistency within the Municipal Code; and
4. That the ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) and City guidelines for the implementation thereof, pursuant to Article II, Section 2, Subsection (m) of the City of Los Angeles CEQA Guidelines, that enactment of this ordinance constitutes enabling legislation and will have no impact on the physical environment.

Charter Section 559

For the foregoing reasons and as provided under the authority of Charter Section 559 and City Plan Case No. 13505-A, I find that my action conforms with all applicable portions of the General Plan and with the January 27, 2000 action of the City Planning Commission implementing the provisions of the enacted City Charter, and I, therefore, approve this ordinance (attached) and recommend that it be adopted by the City Council.

CON HOWE
Director of Planning

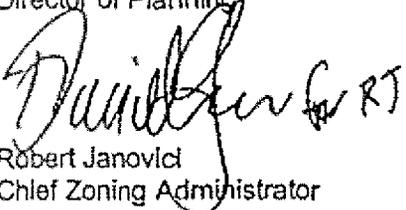

Robert Janovici
Chief Zoning Administrator

Exhibit 5

CITY OF LOS ANGELES
CALIFORNIA

WALTER C. THIEL
CITY CLERK

OFFICE OF
CITY CLERK
ROOM 335, CITY HALL
LOS ANGELES, CALIF. 90012
MADISON 4-5211

WHEN MAKING INQUIRIES
RELATIVE TO THIS MATTER,
REFER TO FILE NO.

132460



SAM YORTY
MAYOR

December 21, 1966

Los Angeles County Grand Jury for 1966
548 Hall of Justice
Los Angeles, California 90012

Planning Committee

In accordance with Council Rules, communication from the
Los Angeles County Grand Jury for 1966, submitting
zoning study report on zoning case in West Valley section
and recommending that study be made in zoning matters,
was referred to the Planning Committee.

City Clerk

km

*Planning
Committee*

ZONING STUDY REPORT & RECOMMENDATIONS

DEC 21 1966

On November 22, 1966, this Grand Jury completed its investigation with respect to a complex zoning case in the West Valley section of Los Angeles. The evidence before us indicated that a developer had represented to his partners that he could secure favorable zoning treatment from the City of Los Angeles in exchange for payment of monies. While this jury could not legally conclude that such monies were actually paid for the very favorable zoning obtained by the developer, there were many circumstances in the case that caused us grave concern. Mainly, this body heard evidence indicating that the zoning sought in this case had adverse recommendations from every city agency that considered the application from its inception and, yet, when the matter was finally appealed to the Los Angeles City Council, the developer was successful in reversing all of these agencies that had previously considered the application. As a result of our concern generated by this case, we undertook a supplemental zoning study and heard testimony from several knowledgeable and informed persons in the field of zoning. [We regrettably report that evidence we heard demonstrated that influence can and has been and in all probability will be exerted through the medium of campaign contributions, political obligations and friendships.] This Grand Jury feels that it might be of assistance to issue certain recommendations as a result of conclusions reached from considering this evidence. Therefore, in the spirit of hope for continuing progress in the field of efficient and honest government practices at all levels and in all fields, the following recommendations are made:

DECEMBER 21 1966

PLANNING COMMITTEE

1. That specialists in the field of zone problems who have been identified by various terms such as land consultants, expeditors, zoning advisors, etc., be required to register as practitioners in that line of work and that certain minimal ethical standards be established for the conduct of their affairs. It appears that these men perform a valuable function for persons desiring land zoning changes, but that representation is totally unregulated and that community interests would be better served by knowledge of who performs these types of services, when their services are performed and by whom they are employed.

2. While there is no doubt that the zoning and classification of property is a complex field encompassing a multitude of applicable laws, it is nonetheless a function of government that should allow an individual owner an opportunity to apply for desired zoning without necessarily employing a specialist to represent him at great additional cost. It would appear compatible with sound governmental practices to provide ample public information through knowledgeable governmental employees to that individual seeking a zoning change by his own individual efforts. This information should minimally include advice on applicable standards and guidance in the procedures to be followed in prosecuting an application.

3. While we discuss zoning as a general term, we, of course, also wish to include different forms of zoning which would embrace Conditional Use Permits. The evidence before us indicates that in most forms

of zoning reclassification; the Mayor, as an elected public official, has veto power. However, in a Conditional Use Permit no such veto power exists and the ruling of the City Council is final. It is, therefore, recommended that appropriate legislation be passed to authorize veto power on the part of the elected executive officer of the city on all property reclassification cases and that such an additional check and balance would serve in the best interest of the community.

Evidence further disclosed that rulings of the Board of Zoning Adjustments are final and not appealable other than by expensive recourse to the courts. It is submitted that the interests of the community would be better served if the ruling of this agency were appealable to the City Council with veto power by the Mayor, and it is so recommended.

4. A growing area of concern in all levels of government has been in the field of conflicts of interest, that is, where an official called upon to act in a given field might have some interest in that field which would inhibit that official from acting in a wholly objective and uninfluenced manner. Certainly, the field of zoning administration ranks high as a field of governmental activity calling for regulation of the officials practicing in said field to be free of any conflicting interest. For one example, it is certainly plain to see the disservice to the public interest if an official called upon to vote on some zoning matter,

passage of which would obviously enhance the value of surrounding land, did, in fact, own an interest in some of that surrounding land.

Therefore, it is recommended the immediately upon appointment and/or election, whichever applies, and every six months thereafter while on the City Planning Commission, Board of Zoning Adjustments, or City Council, each member of those bodies shall file a sworn affidavit with the Mayor and City Attorney of Los Angeles listing all real estate properties, their location, zone and use, in which he has any direct or beneficial interest and any part of which are within the city limits of Los Angeles or within five hundred feet outside its borders, except that only his percentage ownership of total stock outstanding need be reported in companies owning more than ten parcels of land so located. These lists shall be confidential and for official reference of the Mayor and City Attorney and any duly authorized law enforcement agency only, unless clear cause has been demonstrated for indirect reference to or release of the lists in whole or in part by the City Attorney. The lists submitted by each member of the City Planning Commission, Board of Zoning Adjustments, and City Council shall be returned to him within ten days after he no longer serves on the Commission.

5. In the spirit of promoting greater public knowledge and awareness of what different governmental units are doing, it is recommended that except in public meetings or in the regular governmental offices of the City Planning Department and City Council in City Hall, discussion of zone changes by applicants, their representatives, and other directly

interested parties with members of the City Planning Commission and members of the City Council be incorporated as part of the Brown Act.

6. At any formal hearing wherein the advisability of granting, changing, or modifying zoning is under consideration, both the proponents and opponents shall be placed under oath.

7. The applicant shall, under penalty of perjury, file with the City Clerk a detailed list of any campaign contributions made or promised to any elected official who may vote on the application. said affidavit must be made at least five days before the hearing and must be a part of the file.

8. Finally, in view of our concern over the evidence in the case which gave rise to this zone study, to wit rejection of the zoning application until it was finally passed upon at the Councilmanic level, it is recommended that when the recommendation of the City Planning Commission on any matter before it under the provisions of the City Charter is

- 1) in accordance with the Master Plan adopted by the Commission, and
- 2) substantially the same as the recommendation of the City Planning Department to the Commission, a four-fifths vote of the City Council shall be required to reject the recommendation of the Commission; or, if the zoning requested is 1) not in accord with the Master Plan adopted by the Commission, and 2) the application is rejected by the Planning Department and the Planning Commission, a four-fifths vote of the City Council should be required to reverse the rejection of the

City Planning Department and the City Planning Commission.

CONCLUSION: In conclusion, the Grand Jury has heard much evidence that demonstrates existing wrongs in the field of zoning administration which are subject to correction. Yet our study was one limited to evidence growing out of only one case. It is apparent that a projected and in-depth study of this field is not only overdue, but one which would be invaluable to the interests of our community. It is our recommendation that such a study be undertaken as soon as possible. While it is not within our purview to set forth guidelines for such a study, common sense dictates that such a study should be undertaken by an agency which is in no way answerable to any of the city agencies which are objects of the study itself.

Exhibit 6

5-3-67

Residents Often Victims in Zoning Changes

Life of Soldier in Vietnam Loses Leased Home After Expediter's Visit to Appeals Board

GEORGE REASONS

Times Staff Writer

and children of a soldier in Vietnam lived in the home they liked it.

She sat on a large, heavily landscaped lot and had an 18 by 38-foot swimming pool in the rear.

The soldier's wife held a lease on the property good for another six months with an option to renew for another six months.

She lived in the home despite the fact that the Golden State Freeway was under construction on the property. She planned to move out there until her lease expired.

The decision wasn't to be hers. She turned the property over to her husband. The expediter's hands and plans were set in motion to turn it into a site for a service station.

An application had been filed for a variance and that's what the expediter investigated from the beginning on her door.

Trying to substantiate the variance by an expediter, now representing the new owner by traffic noise and the headlights made it impossible to get tenants. This was the reason behind his application for a "zone" variance.

The expediter questioned the wife and in August, wrote a report based on what he told him:

The field investigation indicated the residence is not presently occupied by a tenant on a lease until February, with an option to extend it for another year.

In an inter-departmental memo he wrote:

"Too much credence is given to

that she and her children were used to the freeway traffic and she said, 'After a while it almost lulls you to sleep.'"

She added that heavy growth around the home provided more than enough protection from freeway noises and the glare of headlights.

The variance was rejected by the city's zoning administrator, a civil servant who ruled that development of a service station would "be injurious" to other property in the residential neighborhood.

But that wasn't the end of it. The expediter appealed the decision to the politically appointed Board of Zoning Adjustment.

One member of that body, a quasi-judicial "appeals court," which has the final word on variances, pointed out that the developer's case didn't make sense.

Noting that the property was then in escrow, he said the expediter in effect was arguing that his client bought a piece of property he knew he couldn't rent and by doing it created a hardship for himself.

Board Upholds Appeal

Despite the objections, the appeal was granted and the Valley has one more service station.

Why the woman in the house gave up her option to lease for another year is a matter for conjecture.

Zoning Administrator Huber Smutz, a civil servant who makes the initial decision on zone variances, has been highly critical of the role of expeditors in the zoning process.

In an inter-departmental memo he wrote:

"Too much credence is given to

all are not planning experts over the statements and findings of qualified, experienced zoning administrators.

"The record will show that the board has granted almost every appeal handled by certain well-known expeditors."

The "well-known" expeditors number only six or seven but this small group handles an unusually large number of important cases often involving millions of dollars in potential profits.

The expediter, in effect, is a lobbyist who sometimes gets "impossible" things done because of his key contacts.

Some of the more successful lobbyists are personal friends or business partners of planning commissioners or councilmen. Others are heavy campaign contributors, buy fistfuls of \$100 tickets to testimonial dinners and otherwise support the establishment.

Some but not all have professional backgrounds in planning. Some are developers as well as expeditors. All of them appear to have some special connection with one or more of a number of key officials.

Some of the more successful ones are:

Ernest A. Schroer Jr., of 10232 Aura Ave., Northridge, has been connected through a development firm known as Antelope Farms Corp. with Planning Commissioner Charles F. Flanagan. Schroer, who came here from Las Vegas, also is a friend of and substantial contributor to Councilmen James B. Potter and Thomas D. Shepard.

George Carey, a friend of Board of Zoning Adjustment member Roger

expediter for Councilman Louis Nowell's brother, Ernest.

George E. Moll, of 18455 Burbank Blvd., Tarzana, who was the first president of Antelope Farms, then headquartered in his office.

Don Cunningham, 3723 Wilshire Blvd., who has acted as expediter on cases in which Planning Commissioner John J. Pollon had an interest before he was appointed to the commission, is a friend of Commissioner Flanagan and a frequent political contributor to key people.

His name appears first on a list of contributors solicited by BZA member Hutchinson for Yorty's campaign in 1965.

After returning an indictment in a controversial rezoning case in Chatsworth, the 1966 county grand jury conducted a brief study of city zoning practices at which four expeditors were summoned to testify.

Grand Jury Study

In its report on the study, the grand jury said:

"We regretfully report that evidence heard demonstrated that influence can and has been and in all probability will be exerted through the medium of campaign contributions, political obligations and friendships."

One of the expeditors heard by the grand jury was the man who handled the property on which the family of the soldier in Vietnam lived.

He was one of those singled out by Smutz in his criticism that too much stock is placed in what expeditors say.

Smutz might have made another point but didn't—expeditors and

Planning Commission, zoning administrator and Board of Zoning Adjustment do NOT testify under oath.

The applications to file variances or changes of zoning, on other hand, are sworn statements but even here ownership often hidden.

Under these circumstances when huge profits often are at stake it is not unusual that the record is jammed with cases in which zoning changes have been granted on basis of misstatements of fact.

On occasion, expeditors have been known to deliberately evade pertinent questioning by the zoning administrator.

In other cases they have sought zoning changes for a stated purpose such as development of a retail store, but later the store turns out to be a service station.

Frequently the alleged owner of the applications they file turns out to be the former owner.

The case for a zone change considered to be somewhat stronger when it is sought by someone who has held the property for some time instead of by a developer who bought it intending to rezone it immediately for commercial use.

Often an expediter will file an application for a zone change in the name of one person and indicate that person owns the property when actually the deal might involve a dozen owners.

In some of these cases, information omitted from the application was related to city officials by blood business ties and were not anxious

EXPEDITER'S FUNCTION EXPLAINED

Residents Often Victims When Zoning Is Changed

Continued from First Page

for their names to appear.

Because of this provision, property owners sometimes find their land being rezoned when they have nothing to do with the application. Applications from lessees and from those in escrow buying property are also accepted, and are legal.

For a variance, however, all affected property owners must sign.

Most of the successful expeditors are on a first name basis with the planning officials with whom they deal. They address one another by their first names at public hearings.

Often their business comes from referrals made to them by planning commissioners and councilmen who later will decide officially whether the change is to be granted.

It often works this way. A realtor or property owner who has land he wants rezoned goes to his councilman or a planning commissioner for advice.

Giving advice to constituents is a normal part of a councilman's job.

The councilman or commissioner listens, perhaps gives a snap judgment on the chances of success and suggests the person hire professional help. He then often refers him to a specific expediter.

Because of this arrangement, several expeditors handle cases which almost always fall within a specific councilman's district.

If a councilman vetoes a zone change in his district—which sometimes happens when the community is aroused—his colleagues usually respect his wishes when it comes to the council floor and vote it down.

For his work, the expediter may get several hundred dollars or several thousand, depending on the difficulty of the case or the potential profits involved.

"I charge whatever the traffic will bear," one expediter told the grand jury.

In the Chatsworth case in which expediter Bryan Gibson was indicted, grand jury testimony revealed that the developers who engaged him had put up more than \$30,000 to

by O'Melveny & Meyers at the behest of Mayor Sam Yorty, who turned to the private law firm instead of the city attorney because he said he and the city attorney "didn't seem to be able to get together on what we wanted."

The city attorney's office at the time reacted swiftly and in anger. Asst. City Atty. James A. Doherty wrote a satiric report to the council's Governmental Efficiency Committee in which he charged Yorty's ordinance was revealed at a press conference and no member of the city attorney's office was consulted on it.

Then he submitted pointed criticism of the ordinance which later accounted in part for its defeat.

Doherty pointed out that the ordinance would have controlled lobbyists who dealt with the council but not those doing business with the mayor or the commissions which the mayor appoints. He put it this way in his report:

"The ordinance is extremely comprehensive when dealing with the council, is less comprehensive so far as persons dealing with the mayor, but is completely silent as to persons dealing with commissions."

Many zoning matters, including variances and certain kinds of conditional use permits, are handled exclusively by civil servants and the appointive Board of Zoning Adjustment. They never come before an elected official.

Other zoning cases, such as those

PROCEDURES FOR ZONING CHANGES ARE EXPLAINED

When use of property in certain ways is precluded by zoning classification on master or land use plans, developers may get around it by seeking three kinds of action:

1—ZONE CHANGE—Changes the zone by ordinance. Acted on first by the Planning Commission, it re-

1991
1992
1993
1994
1995
1996
1997
1998
1999
2000

Indict Grand Theft

Before city votes were cast in the case, it was testified, some of the money had been passed on to Councilmen Thomas D. Shepard and John Gibson and to then Councilwoman Rosalind Wyman "as campaign contributions."

The expediter was indicted for grand theft and conspiracy to commit bribery. He currently is awaiting trial. No charges were brought against the council members.

Frequently property owners won't pay the price demanded by an expediter, even though they charge that unless they do they don't get their zoning.

Most of them are afraid to complain publicly because the financial risk is too great. An attack on the system would end any future chances they might have to get their rezoning.

Some, however, do speak out.

Mrs. Marjorie Boyd, an Encino realtor, said she twice has attempted to have single family residential property she owns at 4965 Genesta Ave. rezoned for apartments.

Both times she has lost even though her property abuts commercial property and the master plan for the area calls for it eventually to be zoned for apartments.

Approached by Expediter

After her last defeat, Mrs. Boyd said she was approached by an expediter who told her she would never get rezoning her way but that he could take care of it for her for \$20,000. She refused.

She said she will sit on her property until it falls before paying \$20,000 for something to which she feels she is rightfully entitled.

Another case in which the property owner refused to talk publicly involved a full acre of land in Winnetka.

This property owner said an expediter told her he could get a change of zone for \$5,000. She refused, tried it without him and lost.

A short while later, a developer attempted to buy the property from her for \$180,000 but told her she would have to kick back \$50,000 of it to take care of the rezoning.

The property is still zoned for single family residences.

Charges of this sort are common, particularly in the San Fernando Valley.

Lobbyists who appear before the State Legislature and the federal government are required to register but there are no city laws controlling their activities.

Whether there ever will be is a matter of conjecture.

Lobby control laws were proposed and then defeated in October and November of 1963.

Currently another lobby law is being considered to plug the loopholes. This time it was urged by the 1966 county grand jury after it conducted its investigation of city

administrative act to be a hardship imposed by zoning. It is granted by the zoning administrator, a civil servant, whose action may be appealed to the Board of Zoning Adjustment, an appointive body. Elected officials do not vote on zone variances.

3-CONDITIONAL USE PERMIT

Provision for certain problem and community service uses at special types of locations and not anticipated in zoning plans. Those which might have some bearing on master plan or overall land use, such as cemeteries, airports, schools, etc. are approved by the Planning Commission.

Conditional uses for parking lots, hospitals, churches, golf courses, mortuaries, trailer parks, drive-in theaters and the like are approved by the zoning administrator.

Appeals from most zoning administrator's decisions on conditional uses go to the Board of Zoning Adjustment and a few matters to the Planning Commission. Appeals from Planning Commission decisions on conditional uses go to the City Council.

involving zone changes, are decided by the Planning Commission subject to what usually is routine approval by the council and mayor.

Doherty made it clear that he felt Yorty's ordinance contained serious loopholes.

At Departmental Level

"As the council well knows," he said, "much of the city's important business is conducted at the departmental level where final decisions are made by commissions."

After the 1966 grand jury recommended reform in zoning, Yorty again pointed to the need for a lobby law.

"When lobbyists are employed to influence legislation, the council, its committees, and commissions, the mayor's office, or any other interested city official, any city taxpayer should be able to find out who is spending, how much, for what, and the source of the funds," he said.

"Although I have formally and informally proposed this to the City Council," he added, "to date that body has not seen fit to adopt the appropriate legislation."

The current lobby measure prepared by the Council's Governmental Efficiency Committee, covers not only boards and commissions but general managers of departments and all elective officials including Mayor Yorty.

It goes to the Council floor today.

This is the final article in a four-part series on zoning procedures and the individuals involved. More articles stemming from the months-long investigation which resulted in the series are in preparation and

Councilman Says Zoning Board Has Made Some 'Funny Deals'

BY RICHARD WEST

Times Staff Writer

The Board of Zoning Adjustments "has made some awfully funny deals since it has been in power," a citizens' committee seeking ways to improve zoning procedures was told Thursday by City Councilman John C. Holland.

For example, he said, attempts have been made for the past 40 years to have residential property on the northeast corner of Western and Franklin Aves. rezoned so a service station can be built there.

"Just recently the BZA was going to approve it," Holland said. "If The (Los Angeles) Times hadn't gotten busy, and this committee had not been formed, the BZA might have granted it."

The board would have taken this action, he said, "despite the fact that the whole neighborhood does not want an all-night service station" on the corner.

Holland did not say how he knew of the alleged, impending action.

At the City Hall meeting, the first

business session held by the committee since it was formed, Holland identified the owner of the property only as "a San Fernando Valley developer" who he said acquired the property only recently.

Records of the county recorder and assessor show that the 75 by 135-foot lot is assessed to Charles A. and Agnes N. Kenworthy, PO Box 151, Encino.

Kenworthy is a San Fernando Valley developer mentioned prominently in The Times' series of articles on zoning earlier this week. He has received several controversial zone variances.

The northeast corner of Western and Franklin Aves., Lot 12 of Tract 3823, was assessed last year for \$5,300 and taxes of \$515.03 were levied on the vacant land.

Holland said of a series on zoning practices which appeared in The Times, "Some of these people who

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The Times' official position on issues is expressed only in the two columns below. Other material on this and the next page is the opinion of the individual writer or cartoonist, and does not necessarily reflect that of The Times, unless otherwise indicated.

Mayor Yorty's Responsibility

The Times on Sunday began publication of a series of articles revealing unmistakable—and often flagrant—conflicts of interest in city zoning practices.

Evidence clearly showed that decisions on land use were being made by appointed officials whose friends or associates would gain financially from such rezoning or variance action.

The Times undertook the investigation in the public interest, for it is the public that loses from such breaches of trust. One improper land-use decision can irreparably ruin a neighborhood or area, and thus make a mockery of orderly planning.

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Members of the 1966 Grand Jury considered the situation so serious that they declared that influence in zoning cases "can and has been and in all probability will be exerted through the medium of campaign contributions, political obligations and friendships."

On Wednesday, however, Mayor Sam Yorty responded to The Times' disclosures by terming them a "smear" of his administration and of himself personally. The mayor sought to absolve his appointees and to brush away the evidence as politically-motivated.

The Times series was no more of a "smear" than the Grand Jury's harsh criticism of influence peddling in City Hall. We suggest that Yorty re-read the articles and reconsider his remarks.

The mayor's defense of his commissioners is easily destroyed by the official record, as The Times pointed out in Thursday's editions.

In view of that evidence, the four appointees involved should resign or be fired from their seats on the Planning Commission and Board of Zoning Adjustment.

Yorty frequently complains that he lacks the authority to function as an effective mayor. But in the present instance he has the full power to remove Planning Commissioners Charles F. Flanagan and John J. Pellon and Board of Zoning Adjustment members Gordon G. McLean, and Roger C. Hutchinson.

The mayor is elected by all of the people of Los Angeles and is responsible to all of them. If an appointee abuses the trust of the mayor and the public, he should be removed.

The quality of appointments to commissions and boards is the most important single safeguard against planning and zoning abuse. No system or set of procedures is any better than the men involved.

Action should be taken, nevertheless, to make municipal zoning and variances procedures more effective and less vulnerable to abuse.

A commendable step this week was the preliminary City Council approval of an ordinance requiring the registration of zoning "expeditors" and other City Hall lobbyists. The measure, supported by Mayor Yorty, would apply to those who for pay seek to influence the Council and its committees, boards and commissions and the mayor and other city officials.

Proposals to curb conflict of interest were bucked by the Council to a special citizens committee headed by former Mayor Fletcher Bowron. This committee, whose membership includes Averill Munger, foreman of the 1966 Grand Jury, has a unique opportunity to propose reforms wherever needed in planning and zoning practices.

★

Every aspect of the rezoning and variance procedures should be studied with the knowledge that an aroused public will demand reforms even if city officials are indifferent.

Mayor Yorty in his appearance before the Grand Jury last year said: "I believe that the zoning concept should be the servant and not the master of community development."

The development of the city of Los Angeles is badly served by zoning officials and zoning practices in which political influence and personal gain are considerations.

Zoning reform, therefore, is challenge that dare not be ignored by Mayor Yorty or anyone else in City Hall.

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L.A. TIMES

Yorty Requests Police Probe of Zoning Charges

Mayor Again Denounces Times Articles but Will Take Any Action Justified

BY RICHARD BERGHOLZ
Times Political Writer

Mayor Sam Yorty said Wednesday he has asked the Police Department to investigate charges of misconduct against some of his appointees in zoning matters.

But at the same time, the chief executive repeated his denunciation of The Times for its investigation and publication of zoning irregularities and for calling in an editorial for the resignation of four Yorty appointees.

"I am not going to apply lynch law," said Yorty, when asked if he intended to request the resignations of Planning Commissioners Charles Flanagan and John Pollon and President Roger S. Hutchinson of the Board of Zoning Adjustment and BZA member Gordon MacLean.

"I will investigate the situation and I will take action as justified by the facts," the mayor said. But then he added:

"I don't intend to disgrace four men with unblemished records of public service."

Number of Conversations

Police Chief Tom Reddin said he has had "a number" of conversations with Yorty recently concerning the zoning matter, and said his office is currently conducting an investigation of possible criminal activities.

The chief pointed out that his department has jurisdiction only in criminal matters, and not in cases of possible conflict of interest.

Yorty said it has long been his practice to ask for a police investigation in any zoning matter where there is any suggestion of irregular-

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Yorty said it has long been his practice to ask for a police investigation in any zoning matter where there is any suggestion of irregularity on the part of any city official involved.

The mayor told newsmen they should make no mistake about this fact: That he is not investigating the zoning situation because he suspects something is wrong.

Repeatedly, the mayor has attacked The Times' series of articles on zoning and the editorial which followed.

"I hope they (The Times) trust the Police Department," he said.

Sees Nothing Wrong

Yorty said he saw nothing wrong in zoning expeditors (the professional lobbyists for zone change applicants) "getting to know planning commissioners, the men with whom they have to do business."

He accused The Times of working for months on the zoning investigation, then "springing it on me" without prior notice.

In answer to a question, Yorty said he was not skirting the intent of the city charter by keeping many of his appointees dangling in city service without renewing their appointments.

Thirty-six city commissioners now are serving after their terms have expired and without mayoral reappointment. Another 20 will be added to the list this summer.

The charter calls for term appointments by the mayor, subject to council confirmation. But Yorty said the charter also provides his appointees will serve until their successors are

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5-11-67

L.A. TIMES

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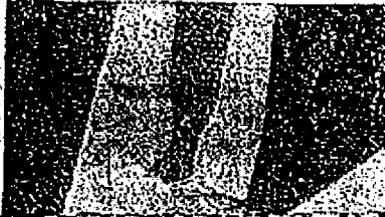
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ACCUSED IN ATHENS—Andreas Papandreu, son of a former Greek premier, was arrested by military regime on charge of "high treason."



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L.A. TIMES

Continued from First Page.
appointed and qualified.

The mayor said he thinks all of his appointees should serve strictly at his pleasure and subject to his immediate removal, and this system of asking commissioners to serve without renewing their terms of office is consistent with that belief, he said.

Yorty acknowledged that a "Dear Friend" letter from him has been sent to voters in the 12th Councilmanic District urging them to support Councilman John Patrick Cassidy in the May 31 run-off election with onetime councilman Robert Wilkinson.

The mayor said he didn't think there was anything unusual about a mayor writing a "Dear Friend" letter in a council campaign.

Urges War Effort

Later, at a luncheon meeting of Pepperdine College's ninth annual Forum of Civic and International Affairs at the Statler Hilton, Yorty called for continued escalation of U.S. military efforts in Vietnam.

"We are making a mistake in begging the Communists to come to the peace table," he said. "Any show of weakness

will only encourage the enemy," he said. "They won't give up until they are defeated militarily."

"We should have hit their power plants (as in the recent bombing raids on Haiphong) a lot sooner, to reduce their military production."

The mayor said the recent apparent escalation of U.S. military efforts came "too slow and too late—but better late than never."

Yorty said that while President Johnson may have been "too reticent" in increasing military efforts, "he's stiffening now."

"There isn't any Presidential candidate who has anything better to offer,"

Yorty said.

Planning Official, in Broker Role, Bid in Rezoning Case

BY ART BERMAN
Times Staff Writer

The plan to develop a shopping center on 12 acres across from the Motion Picture Country House and Hospital looked like a good business deal.

It looked so good, in fact, that City Planning Commissioner Charles F. Flanagan, functioning as a real estate broker, offered \$1 million for the property.

But Flanagan was outbid.

And in the end, the planning commissioner voted to disapprove of the City Council's action which rezoned the 12 acres for a shopping center.

Commissioner Flanagan's turnabout—opposing a project he once sought for himself—was the last

This is another in a continuing series of articles on zoning practices in the city and inter-relationships between zoning officials and applicants. The series results from a months-long investigation by staff writers George Reasons, Gene Blake, Bob Jackson, Art Berman and Ed Meagher.

remarkable gesture in an extraordinary rezoning case.

It was a case that became so potentially explosive that Mayor Sam Yorty's executive secretary, Robert L. Goe, felt compelled to express assurances that no pressure was being exerted from City Hall.

Flanagan told The Times that he heard rumors of pressure in the zoning case, but doesn't know of pressure actually having been exerted.

The planning commissioner defended his vote to disapprove of the

rezoning ordinance, saying it was a formality to clear the way for implementing the ordinance.

"I abstained when that case first came before us," Flanagan said.

The case had rather ordinary beginnings in 1964 when a master

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REZONING CASE

Continued from First Page
plan was completed for extension of the Motion Picture Relief Fund's venerable Motion Picture Country House and Hospital in Woodland Hills.

The plan foresaw a shopping center development across from the long-established facility for retired and invalid film industry employes.

The country house and hospital are south of the Ventura Freeway and west of Mulholland Drive.

Across Mulholland Drive is a 12-acre site which was then owned by the Relief Fund.

As part of the development program, officials of the Relief Fund wanted to sell the site — then a tree nursery — to private enterprise for development of a shopping center.

But there was a drawback: The site was zoned RA-1, which meant it could be developed only for residential lots, each at least 20,000 square feet.

Officers and trustees of the Relief Fund—many of them top names in Hollywood—decided to sell the land to a developer contingent on rezoning.

William T. Kirk, executive director of the Relief Fund at 335 N. La Brea Ave., told The Times that the first offer for the site came in the spring or summer of 1965. It was from Flanagan.

is something that only he and officials of the Relief Fund know for sure. Flanagan said there was no pressure exerted that he knows of.

Robert Vallier, a Century City attorney who represented the Relief Fund in negotiations for the property, declined to discuss the case in detail.

"There is nothing terribly startling to tell, because it was all very subtle," Vallier said.

"But," he added, "I knew what they were trying to tell me."

Kirk, executive director of the Relief Fund, said he also was aware of the juxtaposition of Flanagan's roles as real estate man and planning commissioner.

Began to Wonder

"Nobody had to say it in so many words, but not being entirely stupid, I began to wonder about it," Kirk said.

Nevertheless, the Relief Fund trustees voted to accept the Coldwell, Banker-Chazan proposition.

Then, Kirk recalled, Flanagan offered to match the \$1.1 million offer and "said he would meet any offer."

But the trustees refused to back out of their commitment to Coldwell, Banker.

It was sometime later.

flood-control channel from the east boundary of the proposed shopping center.

A petition with 600 signatures of area residents opposing the development also was presented.

The hearing examiner reported the audience was 24 to 21 in favor of the zone change.

Dec. 9, 1965 — Planning Department examiner Orth recommended against the zone change, saying a shopping center would not be in keeping with the Woodland Hills Land Use Plan.

The area "is liberally endowed with existing and proposed commercial zoning in more appropriate locations," Orth reported to the Planning Commission.

Orth recommended that the zone be changed to RS-1, which would permit residential subdivision into lots of 7,500 square feet rather than 20,000 square feet.

Dec. 23, 1965 — Chief Examiner Thomas W. Golden reported that he and Planning Director Calvin Hamilton concurred with Orth's decision.

Jan. 6, 1966 — The

Planning Commission adopted the Orth-Golden-Hamilton recommendation, voting 3-0 to change the zoning to RS-1.

(Flanagan is listed as absent when the vote was taken. Kirk said, "Flanagan got up and walked out when our case was called at one hearing," but Kirk was unsure whether this was the hearing in question.)

May 24, 1966 — City Council's Planning Committee heard an appeal from the Planning Commission's decision.

July 11, 1966 — The Planning Committee, in a report signed by Councilmen John S. Gibson Jr. and Louis R. Nowell, recommended to the council that the 12 acres be rezoned to C2-1 and P-1, with several exceptions designed to allay fears of nearby homeowners.

The principal exceptions: The south 50 feet of the odd-shaped lot should be R1-1 (residential) to serve as a buffer. A dirt mound surmounted by a 6-ft. ornamental wall should be built along the east edge of the shopping center.

The council adopted the

committee report by a 12-0 vote.

Oct. 4, 1966 — The council moved to implement the committee recommendations.

Dec. 15, 1966 — The Planning Commission was informed that an ordinance was being prepared to enable the City Council to rezone the 12-acre site for a shopping center.

Commissioner Melville C. Branch moved to express disapproval of the pending council action.

Commissioner Flanagan seconded the motion.

Commissioner Ellis A. Jarvis voted in favor, while Commissioners Allen T. Murphy and John J. Pollon were absent.

Flanagan told The Times that he voted against the ordinance at the request of Coldwell, Banker because only three commissioners were present. If he had abstained, he explained, the matter would have been delayed in getting back to the council.

Following the vote of Flanagan and his fellow commissioners, the City Council on Jan. 18 adopted Ordinance No. 133,871, granting virtually every-

thing that the Motion Picture Relief Fund wanted.

The 12-acre site in Woodland Hills now is being developed by Coldwell, Banker and Chazan as the "Calabasas Shopping Center."

LAT 6/7/67

FLANAGAN QUILTS PLAN COMMISSION; YORTY HITS TIMES

BY GENE BLAKE

Times Staff Writer

Mayor Sam Yorty Tuesday announced the resignation of City Planning Commissioner Charles F. Flanagan with a blast at The Times for a "massive campaign of harassment."

The announcement came after the first edition of today's Times carried a story detailing Flanagan's role in a rezoning case in which he had also acted as a representative of Ralphs Grocery Co.

Accompanying Yorty's news release was a five-page statement by Flanagan and an affidavit, dated Monday, in which he denied any improprieties as commissioner in connection with Don Mallas, a San Fernando Valley developer.

The relationship of Flanagan and Mallas was detailed in a recent series of articles on zoning in The

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Flanagan Quits Post on Plan Commission

Continued from First Page.

Times. Some of the points denied by Flanagan in his affidavit were not alleged in the articles, and other facts disclosed in the series have not been answered.

The mayor said Flanagan reported Monday that a Times reporter called Flanagan to announce, "We're going to keep checking on you and printing everything we can about you."

A reporter called Flanagan Monday night to ask him for comment on his role as a representa-

Text of statement by Charles F. Flanagan on Page 23, Part 1.

tive of Ralphs in the rezoning of Woodland Hills property for a shopping center sight by the Motion Picture Country House and Hospital.

The reporter made no statement as alleged by Yorty.

The mayor said he has received "several complaints" from city commissioners who have reported The Times "is prying into their backgrounds—both private and public—in an attempt to dishonor their civic contributions."

He noted that the Police Department is continuing its investigation, "as I promised it would." Yorty announced the investigation after the series of articles on zoning appeared in The Times.

Chief Thomas Reddin informs me his department has been unable to produce any criminal offense," Yorty said. "The department's investigations to date have resulted in nothing more than The Times has written—a series of meaningless innuendos. Nothing positive."

Yorty said The Times, in a front page story in the Tuesday editions, "had to retract" some of its statements concerning Charles

that Kenworthy was responsible for an arson fire in a home he owned.

Yorty charged it was "cleverly clouded with additional copy to make The Times look innocent in the whole matter."

"The Times by its actions in these and other matters is discouraging good, dedicated citizens to give their time and talents to Los Angeles city government and making it increasingly difficult to obtain qualified replacements," the mayor charged.

Flanagan's term ended in July, 1966, but he remained in office when Yorty did not appoint a successor. In his statement Tuesday, he said he informed his fellow commissioners in February he was leaving as soon as the newest member became familiar with the job.

"When the newspaper articles were published," he said, "I decided that I would never again expose

my family to such notes.

"I have attended no meetings since that time and I will not again serve on this or any other commission . . ."

"I feel that as a private citizen and a businessman, I cannot expose myself and my family to such unfounded and undocumented personal harassments as I have recently experienced."

A. Kenworthy, another San Fernando Valley developer, with the clarification that The Times did not imply

The story referred to was an answer to a charge by Kenworthy that The Times' earlier story contained certain "insinuations." All of the facts stated in the earlier story were restated in the story mentioned by Yorty, along

Times Seeks to Crush Commissions--Yorty

BY JACK SMITH

Times Staff Writer

Mayor Sam Yorty has accused The Times of attempting to "destroy the commission form of government in Los Angeles" with its continuing investigation into zoning practices.

"What they (The Times) are probably really after," the mayor told a gathering of 50 city commissioners, "is me."

Yorty said he did not intend to stand idly by and leave his commissioners "to the wolves."

The mayor said he was "very concerned" over what The Times "has done" to Charlie Flanagan and what they might do to other good commissioners.

Resignation Told

The mayor referred to former City Planning Commissioner Charles F. Flanagan, whose resignation Yorty announced Tuesday after The Times published a story detailing Flanagan's role in a rezoning case in which he had also represented a grocery chain.

"But don't let The Times discourage you in your civic pursuits," the mayor declared during a half-day city-sponsored Commissioners Institute at Barnsdall Park Tuesday.

"I need, and so does the city, your help in running city government even

though The Times is trying to destroy our commission form of government and the image of Los Angeles," Yorty said.

"The Times wants to run you and believe me you don't have to sit around and wait to be summoned to Times Square," he continued. "This newspaper either wants to run you or ruin you."

Assignments Cited

Yorty complained that The Times has five men assigned to the zoning study, "and yet they only assign one to all of City Hall to report the constructive things we are doing."

"If they wanted to, they could assign a thousand men to zoning practices. If The Times really had anything in this area, they would have given it to the grand jury long ago."

Yorty charged that The Times wanted "another stooge" for mayor, but promised "that won't happen while I'm in office."

He expressed hope that radio and television might "help us avoid such pitfalls as The Times' policies."

"We have a great city," the mayor said. "We have a No. 1 police and fire department and are so much better than many large cities in which news-

papers report on known racketeering.

"It is so refreshing to come back to Los Angeles and see what we have got here. And then to see a big newspaper like The Times go after a decent citizen, like Charlie Flanagan who is trying to do his job by giving his time and energies—well, it really makes me wonder."

Yorty thanked the commissioners for their work and told them, "You are all leaders and we appreciate the great job you are doing for the city of Los Angeles."

Asked by one commissioner why he thought The Times was against the commission form of government, the mayor responded: "I don't think they are if they could appoint the commissioners."

LAT 6/8/67

Flanagan Praised by Yorty, Called Zoning Scapegoat

BY RICHARD BERGHOLZ
Times Political Writer

Mayor Sam Yorty said Wednesday he finds nothing unethical about the conduct of Charles F. Flanagan, who resigned Tuesday in the wake of a probe of zoning irregularities.

He told his weekly City Hall news conference he believes Flanagan is being made a "scapegoat" in a campaign really directed at himself.

Flanagan resigned after The Times disclosed Tuesday that while serving as planning commissioner and holding a vote on zoning matters, he acted as a broker in an attempt to buy and develop a 12-acre parcel of land from the Motion Picture Relief fund in Woodland Hills. The deal was dependent on a zone change for the property to permit construction of a shopping center.

Disapproved by Commission

Flanagan was outbid on the property and the Planning Commission later disapproved the requested zone change, with Flanagan absent. Later he voted against a City Council action granting the zone change. He said this week that this vote was a formality.

Yorty said Flanagan told him he had not represented the prospective buyer—Ralphs Industries—but may have represented the Motion Picture Relief Fund.

However, William T. Kirk, executive director of the fund, and Robert Vallier, its attorney, stated unequivocally that Flanagan had represented the buyer. A spokesman for Ralphs said he could not confirm or deny the arrangement. And Flanagan himself has told The Times he represented Ralphs.

After repeatedly assailing The Times for its investigation of zoning irregularities in the city, Yorty was asked:

"Is it ethical for a member of a commission to represent a party in a matter which might come before this commission?"

Yorty answered:

"Provided he discloses his interest

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Yorty Lauds Flanagan, Calls Him 'Scapegoat'

Continued from Third Page and does not take any part in the decision—yes. Otherwise, you see, you can't operate this commission form of government."

The mayor said the Planning Commission, authorized by law to pass on planning and zoning matters first handled by civil service employes, is made up of persons who donate their time and efforts to city service.

Yorty said planning matters are very technical and "you can't put people on the commission who know nothing of planning."

Flanagan, originally appointed by Yorty, was a real estate developer at the time of his appointment by Yorty and was involved in development afterward. Continuing investigation has disclosed that Flanagan repeatedly has run into conflict-of-interest situations involving associates and friends while on the commission.

The investigation showed that Flanagan represented Ralphs Industries in the proposed deal for the Motion Picture Relief Fund property.

At one point in his news conference, Yorty said he didn't think Flanagan represented Ralphs Industries in the deal, that "maybe he represented the seller" (the Motion Picture Relief Fund) and that besides, he really didn't offer to buy the property "outright" with his \$1 million offer.

Shows Anger

Later in the conference, the mayor angrily said, "Mr. Flanagan said he didn't represent Ralphs and I'll believe him before I'll believe you."

He was talking to a Times reporter.

Contacted by The Times Monday night, Flanagan freely admitted he repre-

him when the fund decided to put the property on the market and that Flanagan clearly identified himself as representing Ralphs.

Contacted Wednesday after Yorty's press conference, Kirk declared his story "stands just as it was stated in The Times."

"Mr. Flanagan came to us as a real estate broker to make an offer on behalf of Ralphs."

In reply to Yorty's surmise that perhaps Flanagan represented the Relief Fund in the deal, Kirk said "he never represented the fund. He came as a buyer."

Yorty also said that Flanagan hadn't really offered to buy the motion picture property "outright."

But Kirk replied that Flanagan had, in fact, done so. "He made an outright cash offer of \$1 million for the property, no strings," Kirk said.

Attorney Agrees

Vallier, attorney for the Motion Picture Relief Fund, backed up Kirk.

"He (Flanagan) came with the buyer," Vallier told The Times. "He brought Ralphs to the Motion Picture Relief Fund with an offer to buy the land."

Vallier conceded that if the deal had gone through, the relief fund would have paid Flanagan's commission. But he said any implication that the relief fund hired him is "nonsense."

Richard Ralphs, president of Ralphs Industries, had told The Times earlier it was "probably true"

that Flanagan represented his firm. He pointed out the offer was turned down and the deal was not consummated.

His brother, Albert Ralphs Jr., said Wednesday there must have been an arrangement between the broker and the relief fund because the seller was to pay the commission. However, he said he could not confirm "one way or another" if Flanagan represented Ralphs.

Even if Flanagan disqualified himself from any participation in the zone change request before the commission, Yorty was asked, is it possible that he might have sought to influence other commissioners in deciding the case?

"Oh, it's possible but not probable," the mayor said. "I don't think he would influence the rest of the commission."

Views on Press

Yorty said, in answer to another question, that he believes the press has the right to check on the backgrounds of his commissioners, his staff, even himself—"as long as it is done fairly."

The Times, he insisted, has sought to "smear" him because "they think I might run for (U.S.) senator next year and I'm not their candidate for the job."

He said the Flanagan resignation and the continuing investigation of zoning matters makes it very hard for him to find "good people" to serve on city commissions.

Yorty said he has no person yet in mind as a replacement for Flanagan but he said he will not rule out the possibility of appointing another real estate broker to serve on the Planning Commission.

Flanagan had said he decided last February to resign. Yorty said he knew

of this, just as he knew that Flanagan's term had expired in July, 1966.

Asked why he hadn't acted on Flanagan's desire to resign earlier, Yorty said, "I haven't wanted to replace him; he's very knowledgeable."

The mayor claimed that neither The Times nor his own police investigators have been able to find any criminal acts by any of his appointees and he charged that the newspaper had erred in other stories.

But Flanagan, as a public official, doesn't have equal claim to protection from libel as does a private citizen, Yorty said.

Through inadvertence, Flanagan's recapitulation of his actions with respect to developer Don Mallas, as contained in an affidavit, was incomplete when reproduced in The Times Wednesday.

Full Recapitulation

Flanagan listed what he said to be official records of cases in which Mallas was the applicant or was known to have an interest. Flanagan's complete recapitulation follows:

"Applications filed, 6; commission approval of applications, 0.

"Details of commission actions:

"Disapproval as filed, but approval of staff recommendation of adopted master plan for subject property, 2; disapproval with no alternate recommendation, 4; (two of these cases were sent to the City Council with no recommendation by the commission due to lack of a quorum; however, the council adopted the staff recommendation of disapproval.)

"My personal voting record on the six cases was as follows:

"Abstained from discussion or voting, 4; voted for disapproval, 1; voted for approval, 1 (the commission vote was 3-2 for disapproval)."

LAT 6/8/67

File, May 1967

Planning File Ruled Available to Public

City Atty. Roger Arnebergh ruled Thursday that the Planning Department cannot close its records to public inspection—a move proposed by Planning Commissioner John J. Pollon to stop a Times probe into zoning irregularities.

In a formal opinion requested by planning director Calvin S. Hamilton, Arnebergh held any citizen has a right to inspect the records so long as it does not disrupt the orderly conduct of city business.

Pollon proposed at a policy session of the commission held June 15 that Times reporters be forced to get court orders to inspect the records and said he would be willing to test it in court.

His unusual proposal apparently was prompted by a systematic examination by a team of five Times reporters into the files of the commission and the Board of Zoning Adjustment.

The records search came as part of a continuing Times investigation into zoning irregularities and con-

Please Turn to Page 8, Col. 3

LAT 6/23/67

RECORDS

Continued from First Page
Conflicts of interest involving zoning officials.

Pollon had been named earlier in a Times series on zoning involving conflicts of interests and his resignation was demanded in a later editorial.

In his attempt to close the records, Pollon accused The Times of "nefarious" motives and said "these people (Times re-

porters) are so low enough in character they're liable to plant things in our files and then take pictures of them."

He said The Times as a profit-making organization should not be at "liberty to delve into our files as if they were a public body.

"I don't think they have a right or any individual has a right to try to gather evidence from the public files for their own purpo-

ses," Pollon said.

In his ruling, Arnebergh answered two questions raised by Hamilton as a result of Pollon's remarks.

One was at what point do preliminary staff reports, rough drafts, notes and working papers become public documents which must be open to inspection?

The second was: Must people be shown the entire file when they ask for

general information on a case or must the citizen ask for a specific document?

To the first question, Arnebergh said preliminary reports, rough drafts and other papers which later are discarded are not public documents.

On the second question, he wrote:

"Every citizen has a right to inspect and take a copy of any public writing of this state except as

otherwise expressly provided by statute.

"If the file contains public documents, a citizen has a right to inspect all of such documents. Although the public has a right to see the entire file, this does not mean that such public inspection must be permitted to interfere with the required duties of the official in charge of the records.

"Such officials in charge shall make the records

available during reasonable business hours and when the records are not otherwise in use."

Senior City Planner Robert D. Wilson formed the Planning Commission and Pollon during the discussion on closing the records that Times reporters examined the files in the proper way, in the planning department's own offices under scrutiny of the secretarial staff.

EQUAL RIGHTS
Los Angeles Times
LIBERTY UNDER THE LAW TRUE INDUSTRIAL FREEDOM

LETTERS PAGE

4—Part III SATURDAY MORNING, JUNE 24, 1967 ★

ETHICS AND THE CITY HALL

Mayor Challenges Times

The following letter from Mayor Sam Yorty is published in full. Italicized paragraphs are The Times' replies to certain points raised by him.

The Times' editorial "Ethics and the City Hall" on June 8 prompts me to write a letter to The Times so its readers who might not otherwise have the opportunity to hear or read the other side of the planning and zoning issue may have a chance to do so.

I am indeed disappointed The Los Angeles Times is still pursuing its massive campaign of harassment against my zoning and planning commissioners in its news and editorial columns. I have learned that other commissioners on other city commissions also are being investigated and that their public and private lives are being looked into as basis for possible future accusations by The Times denoting conflicts of interest.

(The Times is seeking only facts and will print only facts in its continuing investigation of zoning and planning practices.—Ed.)

★
A commission appointment is a thankless task which pays commissioners \$10 a meeting. They meet once a week. In addition, many hours a week must be spent preparing for these meetings. A commissioner, therefore, must be a public servant who often puts his civic responsibilities ahead of his private and professional affairs. We in Los

Anges are deeply involved in The Times' planning and zoning articles without a hearing or without an independent check of the alleged facts is an un-American type of proceeding. As I have said before, I will not allow The Times to act as accuser, prosecutor, judge, jury and executioner in matters affecting these dedicated citizens.

I should like to note that Newsweek magazine two weeks ago emphasized The Times' lack of reporting its current anti-trust suit involving purchase of the San Bernardino Sun. Reports of this suit are visibly absent from The Times' daily news column.

(The Times printed articles when the suit was filed, when the trial opened and when testimony ended, as is customary in civil suits of this nature. At the conclusion of oral arguments scheduled for Sept. 14, The Times will publish a summary of the entire case. Ed.)

★
Perhaps the Times has some feeling of what it made former commissioner Charles Flanagan go through before it so disgusted him that he resigned from the Planning Commission. But, unlike The Times, the federal government is giving The Times a fair and proper hearing. I am positive no decision will be rendered in this federal case until all the facts and all the parties have been heard. It is the only fair way to decide an issue. Mr. Flanagan, on the other hand, resigned a few days ago without a proper hearing because of editorial harassment which unduly affected both his private and professional life.

sion of a meeting. They meet one week. In addition, many hours a week must be spent preparing for these meetings. A commissioner, therefore, must be a public servant who often puts his civic responsibilities ahead of his private and professional affairs. We in Los Angeles are indeed fortunate to have these dedicated men and women devoting their wisdom to the smooth functioning of the city.

(The Times articles have not impugned commissioners in general, but have merely called attention to specific instances of conflicts of interest.—Ed.)

★

It would be absurd, however, for me to assume that possible conflicts of interest, especially borderline ones, would never occur in a commission form of government. I hope, for instance, that all my commissioners have friends. They would be very unusual people if they did not. My only logical recourse when accusations are made in so-called "conflict of interest" cases is to ask the police department to conduct its own investigation in these matters, whether these accusations originate from The Times or a private citizen. The police department, conducting an investigation with the district attorney's office, is now looking into The Times' charges involving the planning and zoning commissions. But, as yet, neither the police department nor the district attorney has been able to substantiate these charges or find evidence of criminal intentions.

(The Times articles have neither said nor implied that the conflict-of-interest situations exposed have constituted criminal violations. They are not covered in present laws. However, The Times deems it to be in the public interest to expose them—and will continue to do so in hopes that a searching look at present laws will result.—Ed.)

★

I wish to emphasize this point. I have investigated every charge of a zoning irregularity during my years as Mayor of Los Angeles. As a result, I—not The Times—have caused Los Angeles County Grand Jury investigations of two cases— one of which is currently before the courts. I shall continue to investigate alleged irregularities and to take appropriate action if any are substantiated.

But, until the police department and the district attorney complete their investigations, I can only assume that The Times' charges are innuendoes. Only a week ago, The Times, to avoid a libel suit, had to completely retract a serious charge against San Fernando Valley deve-

until all sides and all the parties have been heard. It is the only fair way to decide an issue. Mr. Flanagan, on the other hand, resigned a few days ago without a proper hearing because of editorial harassment which unduly affected both his private and professional life.

(The Times does not consider it "editorial harassment" to ask for the resignation of a public official on evidence that he has abused his position of trust by being involved in conflicts of interest. Ed.)

★

A few days ago, I received with interest a copy of a letter to Mr. Flanagan from the four remaining commissioners on the Planning Commission. As a tribute to Mr. Flanagan, I wish to include it here:

"Although you had informed us some months ago of your intention to resign from the commission when it had again reached full strength after several personnel changes, we received the public announcement of your resignation with deep regret.

"Your contributions to sound, forward-looking planning in this city have been invaluable and will be reflected many fold in the years ahead. To catalogue them will be an impossible task.

"May we say that your services as a commissioner have been characterized by: extensive technical knowledge of the problems involved; great knowledge of the physical characteristics of the city; direct experience with economics as a force in planning effectuation; tenacity in pursuing the defined goals; generous allocation of your personal time to city business; careful concern with zoning and planning matters; intense loyalty to your city; and involvement far beyond the call of duty.

★

"Our thanks to you, Mr. Flanagan, on behalf of the City of Los Angeles, and your colleagues on the commission, who shall miss you greatly indeed."

The Times has editorialized for an ombudsman to protect citizens against unfair actions of bureaucrats. Our commissioners are the people's ombudsmen and these commissioners should not be expected to never differ with or reverse the decisions of full time city officials.

Moreover, it is the responsibility of ethical newspapers to inform its readers of irregularities in city government. I am disappointed that The Times has seen fit to assign five reporters to the matter of planning and zoning and, yet, to continue to base its charges of commissioners' conflicts of interests solely on innuendo. By contrast, The Times has only one reporter—an excellent

hope, for instance, that all my commissioners have friends. They would be very loyal people if they did not. My only logical recourse when accusations are made in so-called "conflict of interest" cases is to ask the police department to conduct its own investigation in these matters, whether these accusations originate from The Times or a private citizen. The police department, conducting an investigation with the district attorney's office, is now looking into The Times' charges involving the planning and zoning commissions. But, as yet, neither the police department nor the district attorney has been able to substantiate these charges or find evidence of criminal intentions.

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But, until the police department and the district attorney complete their investigations, I can only assume that The Times' charges are innuendoes. Only a week ago, The Times, to avoid a libel suit, had to completely retract a serious charge against San Fernando Valley developer Charles A. Kenworthy. I will not and cannot in all fairness to any of my commissioners ask them to resign on the basis of this type of unobjective and scurrilous reporting.

(The article referred to was in no sense a retraction. It repeated all the facts contained in the original article and denied Mr. Kenworthy's complaint that there was an insinuation he was somehow connected with setting a fire.—Ed.)

The Times' demand that I summarily dismiss the commissioners in-

to resign from the commission when it had again reached strength after several personnel changes, we received the public announcement of your resignation with deep regret.

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(The five reporters assigned to the planning and zoning investigation—all excellent ones, too—are searching only for facts. It is a complicated and time-consuming task requiring extensive manpower. As for innuendo, the mayor skirts the fact that the record laid out in The Times series remains unrefuted. Ed.)

I can only hope that as The Times continues its campaign to harass my commissioners it will concede their right to a fair hearing and independent determination of the facts before jumping to previously planned conclusions.

SAM YORTY, Mayor
Los Angeles

BIBLE THOUGHT — Except the Lord keep the city, the watchman waketh but in vain.—Psalm cxxvii, 1.

Unethical in Zoning Job

There is nothing ethically wrong with a city board member voting on matters concerning his personal friends, Roger S. Hutchinson, chairman of the Board of Zoning Adjustment, maintains.

The BZA chairman also contended that his financial links to persons appearing before his board have not affected his judgment.

Hutchinson was replying to a story on Page One of today's Times which disclosed his relationship to applicants before his board.

Hutchinson stated his position after The Times asked him about his relationships with three BZA applicants, uncovered by a team of reporters investigating zoning practices.

Confirms Ties

The BZA chairman readily confirmed his relationships with two of the three applicants, but said his actions as a city official were not affected by personal links.

"I feel that I can make fair judgments based on the law without regard to whether he (an applicant) is a friend or not," Hutchinson said.

If city commissioners and board members were barred from voting in cases involving friends the commission system of government could not function, Hutchinson contended.

"It seems to me that the commission system of government has worked reasonably well over the many years, although it has its critics," he said.

Defines Staud

"It seems to me that it brings individuals into the government from all the community at large, and if you state that anybody who is a good friend on a board should not vote his conscience either for or against a company or party who is before the board because they know one another and are good friends, I don't think the commission system can operate."

Hutchinson confirmed that he borrowed \$6,600 from Mrs. Rose Rodin, mother of zoning expediter Morton G. Rodin, before Rodin presented five cases to Hutchinson's board.

"It's true that the loan was made with these parties because of my knowing Mr. Rodin," he said. "There's no question about that."

"But as far as my being indebted to Mrs. Rodin, why that was

the loan was made against secured property which is my home."

He also said he entered the loan "to help her at his (Rodin's) request because she had the money and she could use the interest. I previously had the loan in a regular bank."

(Rodin, however, said Hutchinson wanted to refinance his first trust deed and "asked me if I knew anyone interested in making the loan.")

Hutchinson said he thinks he paid 10% interest, and could have made a similar loan at any bank.

"She had nothing to do with matters before the board," he said.

The loan from Mrs. Rodin was made initially in the name of the Rodins' attorney, Alan K. Schwartz. And Schwartz later was listed as the representative of an applicant for a zoning variance, William Ezralow.

But Hutchinson, who voted to grant Ezralow's request in part, said he never considered the \$6,600 transaction a loan from Schwartz.

Similar Comments

"It was always Mrs. Rodin," the BZA chairman said. "It's fair to say that I know her and Mr. Rodin, but I don't think it's fair to say I know Mr. Schwartz or Mr. Ezralow."

(Schwartz and Rodin made similar comments to The Times. Schwartz said his client, Ezralow, is traveling in Europe.)

Hutchinson added he was not aware that Schwartz was the attorney of record in the Ezralow case.

The BZA chairman confirmed his friendship of many years with George Cary, a zoning expediter who has obtained favorable votes from Hutchinson in 18 out of 20 cases.

Policy Explained

Hutchinson attributed Cary's success—and the success of other professional expediters—to their policy of appealing only those cases which are likely to win BZA approval.

One zoning expediter, he said, had a practice of rejecting "maybe nine out of 10" cases brought to him by prospective clients.

Hutchinson also acknowledged that he and Cary were involved in a series of real estate transactions in Benedict Canyon in 1960.

"You understand," he said, "that the transaction was entered into and

LAT 6/28/67

Attorney on Zoning Board Votes on Cases of 2 Clients

James R. Tweedy Favored Controversial Variance for Developer, While Representing Him in a Valley Lawsuit.

Attorney James R. Tweedy has voted on cases involving at least two of his clients which came before the Board of Zoning Adjustment on which he sits. The Times has learned.

The clients, court records show, are developer Charles A. Kenworthy and Millard E. (Tex) Collins, president of Cal Automotive and his North Hollywood auto parts concern.

Tweedy voted to grant a controversial variance to Kenworthy at the same time he was representing the developer in a civil suit in the San Fernando branch of Superior Court.

Tweedy said he didn't realize when he voted that the applicant in the case was Kenworthy.

In the case involving Cal Automotive, Tweedy made a motion eliminating expensive street improvements on property the firm had bought in Sun Valley.

Tweedy said the seller, the Carter Co., 2975 Wilshire Blvd., would have had to pay for the improvements. He said his vote actually was against the interests of his client.

Vote Considered Helpful

The facts indicate, however, that Tweedy's vote was helpful in closing the deal and avoiding litigation.

Regardless of the merits of either argument, the fact that Tweedy took an active part and voted on a case involving his client is undisputed.

Tweedy, 36, a former city playground director and later a deputy sheriff, became an attorney only five years ago. Financial success came quickly.

In a divorce action filed last year, his wife, Denise, placed Tweedy's annual income at \$35,000 and listed among his property a yacht at Marina del Rey.

She said he earned \$50,000 in 1965, his fourth year of legal practice.

Mayor Sam Yorty appointed Tweedy to the BZA on May 10, 1963.

This is another in a series of articles on zoning practices in Los Angeles resulting from a continuing investigation by The Times, led by staff writer George Reasons. The month-long study is being conducted by staff writers Art Berman, Gene Blake, Bob Jackson and Ed Meagher.

(The BZA is a quasi-judicial body which hears appeals from decisions of the zoning administrator, a civil service official.)

Kenworthy got little support from Tweedy until three years after his appointment. By that time, Tweedy had become Kenworthy's lawyer.

In a Kenworthy case filed in 1964, Tweedy voted with his colleagues to reject the developer's appeal for a variance for a service station at 23155 Ventura Blvd.

In another case filed in 1965, Tweedy was absent when the crucial vote was taken on a variance for a store building. Kenworthy wanted to erect on residential property at 18060 Parthenia St.

The BZA approved the request March 2, 1965.

Kenworthy filed his next appeal with the BZA Feb. 7, 1966, almost a year later.

Before it came to the BZA for a vote, Tweedy had become Kenworthy's lawyer. Acting as Kenworthy's expediter on the case was George Cary, a close friend and associate of another BZA member, Roger S. Hutchinson.

Approval of a variance requires three votes. There are five members on the board.

The case was one of the most

Please Turn to Page 6, Part 2

LAT

6/29/67

(Clipping)

Citizens Invited to Offer Reforms in Zoning Procedures

Citizens views on possible improvements in zoning procedures were solicited by a blue-ribbon citizens' investigating committee Tuesday.

The seven-member group, headed by former Mayor Fletcher Bowron, has heard primarily from public officials since it began hearings three months ago.

Beginning Aug. 3, however, the committee announced, it would like to hear from private persons or organizations with suggestions for possible reforms in zoning-planning procedures.

Individuals desiring to appear before the committee were requested to write to the Secretary, Citizens' Committee on Zoning Practices and Procedures, Room 375, City Hall.

The request, the committee stressed, should clearly estimate the amount of time required, the subject matter and how it relates specifically to suggestions for improvements of existing practices and procedures.

Function of Committee Stated

The committee emphasized that it is not its responsibility to rehear evidence on specific zoning cases.

Rather, it declared, its function is to:

1--Inquire into the "adequacy or inadequacy of present laws and procedures."

2--Consider ways in which they can be "improved to justify public confidence in the practice of zoning"

3--Make it "difficult for those officials and employes involved in zoning cases to deviate from proper and effective policies and practices."

The committee was established last Jan. 19 as an outgrowth of recommendations by Mayor Sam Yorty and the County Grand Jury resulting from the jurors' investigation of a Chatsworth rezoning case. Woodland Hills developer Bryan E. Gibson was convicted of grand theft as an outgrowth of the inquiry.

Among those who have presented their views to the committee thus far are Yorty, several councilmen, members of the City planning Commission and Board of Zoning Adjustment, zoning administrators who make determinations on zone variances, director of planning Calvin S. Hamilton and other city officials.

*Up. Planning
Zoning Practices &
Procedures*

LAF 7/26/67

Witness Accuses Zoning Board of Bias, Discourtesy

The Board of Zoning Adjustment, which functions as an "appeals court," was accused Thursday of bias and bad manners in its dealings with the public.

One board member propped his feet on the desk and drank a cup of coffee in the midst of a public hearing, Paul Boone of 23142 Leonora Drive, Woodland Hills, told a blue-ribbon committee investigating zoning. He did not name the board member.

Boone said that when the applicant in favor of the variance rose to speak the BZA became attentive and polite but that when he attempted to speak in opposition he was repeatedly interrupted.

"I was so disgusted. I just sat down," Boone told the committee headed by former Mayor Fletcher Bowron.

The case involved an appeal from the decision of the zoning administrator in turning down a variance for a service station at the northwest corner of Ventura Blvd. and Woodlake Ave., Woodland Hills. The zoning administrator is a civil servant who hears variance cases initially.

Flanagan Held Interest

The applicant was the Antelope Farms Corp. in which former Planning Commission Charles F. Flanagan held an interest. Flanagan resigned in the aftermath of The Times' recent series on zoning irregularities.

The spokesman for Antelope and a principal in the development firm was Ernest A. Schroer Jr., of 10232 Aura Ave. Schroer is a major developer of sites for service stations.

Boone and Mark Outhwaite of 23168 Leonora Drive, appeared at the BZA hearing on Oct. 25, 1966, as spokesmen for property owners opposing the gas station.

Outhwaite told Bowron's committee that the hearing was a "typical railroading operation."

He said the BZA chairman continually "harassed" Boone while he attempted to present the homeowners' case. (Chairman at the time was

Please Turn to Page 3, Col. 1

ZONING

Continued from First Page
(Roger S. Hutchinson.)

Outhwaite added that the chairman's actions "had a terrific bearing on the case."

A zone change for the corner had earlier been turned down by the City Council but despite that, Boone said, the appointive BZA overruled elected officials and granted the variance which permitted the service station.

Since 1961, Boone said, 17 service stations have sprung up within a 1½-mile area on Ventura Blvd.

He said zoning has broken down in Woodland Hills so that Ventura Blvd. now is known as "Honky Tonk Row" because of its many beer joints and service stations.

Feli ...
LAT 8/4/67

7-1-67
Enterprise

ZONING

BOWRON'S BLUE RIBBON

By JOYCE PETERSON

As a political show the current hearings by the Citizens Committee on Zoning Practices and Procedures are about as lively as a Sunday afternoon chess tournament. Week after week witnesses drone on about technicalities in zoning laws and internal conflicts in the city's planning setup. Speakers from unhappy property owner groups echo the same complaints that can be heard at any two bit zoning hearing.

So far there have been no juicy disclosures of conflict of interest, no angry scenes, no wild charges. Television crews gave up covering the

sessions after the first few meetings. For note-taking reporters, it has often been slow, dull going.

Yet the committee's study may lead to more real zoning reform than any number of flamboyant investigations into wheeling and dealing in zoning. From the outset the committee made it clear its interest was not in pointing the finger at alleged wrongdoers but in cleaning up the procedures that make such wrongdoing (either real or imagined) possible. This has meant getting down to the nitty gritty details which may spell the difference between good and bad zoning.

Two men have dominated

the committee proceedings. One of them has been the chairman, former Mayor Fletcher Bowron. The other is Gordon Whitnall, the city's first planning director. Both Bowron and Whitnall have an intimate knowledge of City Hall planning procedure—and the historical background behind them.

Here are some of the areas under discussion.

Zone variances—The appointive Board of Zoning Adjustment has been under heavy fire for granting zone variances to permit projects that have been turned down in zone change cases by the City Planning Commission.

(Continued on Page 5)

CAREFUL REVIEW OF ZONING UNDERWAY

The Planning Commission's decisions are subject to review by the City Council. In most cases, those of the BZA are not. This creates a situation where non-elective BZA members are in a position to make final decisions having tremendous effects on the value of property.

The BZA has been criticized for granting variances which go beyond the narrow legal limits set in the city charter. However, the practice of using the variance procedure to rezone large pieces of property stems from a defect in the basic zoning law. At present when the City Planning Commission approves a zone change it cannot set conditions to make sure property is developed in a certain way. For instance, a developer may present pretty pictures of a landscaped office building which would do little harm if built adjacent to a residential district. Yet once the zoning is changed the applicant might turn around and sell the land for a fancy price for a different project bad for the neighborhood. Therefore, even career planners have sometimes encouraged use of variances and conditional use permits.

Obvious answers would seem to be (1) to give the City Planning Commission authority to put more

The majority of eye-witness accounts were said to be corroborated by statements of other demonstrators or by photographs taken during the dispersal.

Published by Sawyer Press for the ACLU of Southern California, the report will be available on newsstands and in bookstores. Proceeds from the sale of the report will be used to defray the costs of the defense of the 30 demonstrators arrested at Century City

strings on development of property when a zone is permanently changed, (2) to provide for an appeal to the City Council and the Mayor on any variances or conditional use permits involving major projects.

Commission conflicts. — Members of the City Planning Commission say they are perfectly willing to file statements showing their real estate holdings. The hangup comes on proposals that commissioners make complete disclosure of their entire personal finances.

The citizen commissioners argue — with some validity — that an individual's net worth may go up for many reasons having no connection whatever with his unpaid job on a city board. Yet he could be laid open to public criticism and suspicion if his affluence shot up sharply during this period.

The hard fact is that it is now virtually impossible to get leading citizens to put in two grueling days a week listening to neighborhood zoning battle cases where somebody always goes home mad. The present \$10 per meeting fee barely covers mileage, lunch and parking. The time requirements are such that a commissioner must either be retired or independently wealthy before he can afford to take the job. If he has any active business connections, it's inevitable that sooner or later these associations will bring him into potential conflict on a zoning case. Yet if commission appointments are limited to the retired and rich, the citizen board will be far from representative of the community at large.

Only time will tell whether the Bowron committee can find the answer to the zoning ills of the City of Los Angeles. But the committee is obviously making a sin-

CITY OF LOS ANGELES
CALIFORNIA



SAM YORTY
MAYOR

MEMBERS
FLETCHER BOWRON
CHAIRMAN
RUDOLPH OSTENGAARD
VICE CHAIRMAN

JOHN C. BOLLENS
J. ROBERT KING
MRS. ROBERT KINGSLEY
AVERILL MUNGER
GORDON WHITNALL

GEORGE RIGBY
SECRETARY
378, CITY HALL
DEPUTY FOR
WALTER C. THIEL
CITY CLERK

SEP 28 1967

CITIZENS COMMITTEE ON
ZONING PRACTICES AND PROCEDURES

September 28, 1967

Council File No. 132,460

Honorable Sam Yorty

Mayor of the City of Los Angeles

Honorable Council

of the City of Los Angeles

Gentlemen:

The Citizens Committee on Zoning Practices and Procedures considers it appropriate at this time to give you a progress report so that you may be informed concerning its activities up to the present time.

The Committee held its first meeting on April 25, 1967, at which Fletcher Bowron was elected as Chairman and Rudolph Ostengaard as Vice-Chairman. At its second meeting, the Mayor and members of the City Council were invited to meet with the Committee to explain their views as to what the objectives and scope of the Committee's work should be.

The Mayor and six Councilmen attended on May 4, 1967, and at subsequent meetings two other Councilmen have appeared.

The Mayor and the Councilmen attending expressed their full support for the Committee's work. In response to a question as to what he considered to be the purpose, scope or limitation of the Committee, the Mayor replied that within the limits of the time which the members could put in on this work, the Committee should take in any area or expand its scope in any way that it wished. He suggested that the Committee start by reviewing present procedures to see whether any changes were desirable.

September 28, 1967

The Councilmen supported the Mayor's statement as to the scope of the Committee's work and some mentioned several specific areas for investigation, including a review of the recommendations of the Grand Jury, conflict of interest and full disclosure, expeditors, and problems relating to variances, conditional uses and zone changes, registration of lobbyists, and any other matters which the Committee might deem it of importance to investigate relating to planning and zoning.

The Committee then determined its objectives and methods of procedures. The Committee agreed that it was not its purpose to try to secure any information that might lead to possible criminal prosecution for anyone. Rather, its intent would be to acquaint itself with what is going on in the field of zoning and planning and then to make appropriate recommendations.

On May 18, 1967, the Committee issued a statement of policy which included the following: "The Committee considers that the reasons for its existence are to inquire into the entire subject of zoning in the City of Los Angeles; including the adequacy or inadequacy of applicable law; policies and practices whether legally sanctioned or not; to identify and reveal, if possible, the original purposes that motivated establishing the practice of zoning; to determine, if possible, whether these purposes are being realized or not and, if not, why; and, finally, to recommend such changes in law or practice as it believes necessary to justify public confidence in the practice of zoning but, equally important, to make available to the public an understanding of the subject so clear and comprehensible as to make it increasingly difficult for anyone, serving in any capacity, to deviate from proper and effective policies and practices."

As a matter of procedure, the Committee decided to hold weekly public hearings to which would be invited appropriate persons concerned with zoning practices and procedures. First it invited public officials and City employees who were concerned with planning and zoning matters; then it invited citizens who had any interest in the Committee's work to meet with it and make suggestions for improving practices and procedures.

Through September 21, 1967, the Committee has held nineteen public meetings, for a total of approximately sixty hours of hearings. City officials and employees appearing have included the City Attorney and members of his staff, the Director of Planning and members of his staff, the Chief Zoning Administrator and the Zoning Administrators, the Superintendent of Building and members of his staff. Members of the Board of Zoning Adjustment have appeared, and the City Planning Commission has met with the Committee on two occasions.

Various organizations have sent representatives to the hearings, including several homeowners' groups, chambers of commerce, the Los Angeles Headquarters City Development Association, the Regional Plan Association, and the League of Women Voters. Over ten private citizens, in addition to representatives of organizations, have also appeared to make suggestions.

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The Committee offered to conduct an evening meeting or meetings to accommodate those who might wish to testify, but could not do so during business hours. An announcement to that effect was made, but the lack of response has not as of this date warranted scheduling such a meeting.

Due to prior long-term commitments of several members of the Committee, there will be no public meetings during October. However, staff work will be continued and members will be studying the material presented to date.

As a result of its extensive hearings, a great deal of information and over 120 specific suggestions for changes have been made. The Committee expects to hold a few more public hearings. However, its future work will be concerned primarily with reviewing and digesting the information received and deciding how to shape up its report and recommendations. Much time and effort will be required in this phase of the Committee's work. The reviewing and classification of the considerable information gathered thus far has already begun on the staff level for the purpose of laying the foundation for findings and recommendations which will form the substance of the Committee's report.

In its consideration of findings and proposals, the Committee will be considering matters which have been brought before it or suggested by members of the Committee in the following general areas:

- History of Zoning Practices and Procedures in Los Angeles
- Ethics and conflict of interest
- Conduct of public hearings
- Revision of the comprehensive zoning ordinance
- Board of Zoning Adjustment
- General zoning and planning practices and procedures
- Variances procedures and policies
- Conditional use procedures and policies
- Zone change procedures and policies
- City Planning Commission

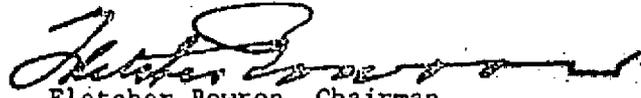
In addition to matters brought up at the Committee's public hearings, several communications have been referred to it by the Mayor and members of the City Council. Also, the City Council has officially referred to the Committee for study and recommendation several Council Files on various subjects, including the recommendations of the 1966 Los Angeles County Grand Jury, filing of campaign contributions, code of ethics for legislators, filing of statements on real estate holdings by City officials acting on zoning matters, and more clearly defining and limiting the jurisdiction of the Board of Zoning Adjustment.

Honorable Sam Yorty, Mayor
Honorable Council . - 4

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The Committee anticipates that it will complete its work during the early part of next year.

Very truly yours,



Fletcher Bowron, Chairman

Rudolph Ostengaard, Vice Chairman
John C. Bollens
J. Robert King
Mrs. Robert Kingsley
Averill H. Munger
Gordon Whitnall

fdg

Summary of Recommendations

After a 14-month study of planning and zoning, the seven-member Blue Ribbon Committee headed by former mayor Fletcher Bowron proposed 35 reform measures. Following is a summary of the committee's recommendations:

A SOUND LEGISLATIVE AND POLICY BASE FOR PLANNING AND ZONING

GENERAL PLAN

CHARTER AND CODE AMENDMENTS

Recommendation 1: Amend the Charter to set forth the purpose, comprehensive nature and essential procedural requirements for the development and adoption of the General Plan of the City. Supplement this by a section of the Municipal Code defining the required content and form of the General Plan and prescribing the specific procedure for its adoption and amendment.

PROCEDURES

Recommendation 2: Provide by ordinance for adoption and amendment of the General Plan according to the following pattern:

1—Study initiated by the Director of Planning, City Planning Commission or City Council.

2—Preparation of General Plan proposals by the Director of Planning with the advice of the General Plan Advisory Board and the City Planning Commission.

3—Public notice and hearing on the Director's recommendations to be conducted by the City Planning Commission or a Hearing Examiner.

4—Recommendations by the City Planning Commission. Any changes from the recommendations of the Director shall be referred to the Director for report prior to action by the Commission.

5—Transmittal of the City Planning Commission's recommendations to the City Council with a copy to the Mayor. The Mayor may send comments or recommendations to the Council within thirty days.

6—Public notice and hearing by the City Council (or the Planning Committee of the Council) not less than thirty days after receipt of the Commission's recommendations.

7—Prior to Council adoption, any proposed changes from the Commission's recommendations must be referred back to the Director of Planning for report through the Commission with copy to the Mayor. Such report must be received within forty days or such longer period as the Council may designate.

8—Final action by the City Council within thirty days after conclusion of the public hearing. If no changes are made or within thirty days after receipt of the Commission's report, if changes are being considered. Adoption of the General Plan or any part shall be by majority vote if in accord with the

recommendations of both the Commission and the Mayor. A two-thirds vote shall be required to deviate from the recommendations of the Commission or Mayor after resubmission.

9—Publication of General Plan as adopted.

AREA-BY-AREA CONSIDERATION

Recommendation 3: Provide for the adoption or amendment of the General Plan on a scheduled area-by-area basis, each area covering less than the entire City, but must involve comprehensive consideration of a logical planning area. The General Plan should be reviewed on this regularly-scheduled area-by-area basis, such schedule and areas to be established by the City Council upon recommendation of the Director of Planning and the City Planning Commission.

ZONING

GENERAL PLAN RELATIONSHIP

Recommendation 4: Amend the City Charter to require that in adopting or amending any zoning regulations or zoning maps, the City Planning Commission and City Council shall make specific findings showing that the action is in substantial conformance with the purposes and intent of the General Plan. If the City Council does not adopt the Commission's findings, the Council shall adopt specific findings showing that its action is in conformance with the General Plan.

ZONING CODE REVISION

Recommendation 5: A complete revision of the Zoning Code should be promptly initiated. However, since two years or more will be required for this revision, certain changes as recommended in this report should be enacted as soon as possible, pending the completion of the over-all revision.

ZONING MAP—REVISIONS BY AREA

Recommendation 6: Establish a procedure for review and revision of the Zoning Map of the City on a regularly-scheduled area-by-area basis, such schedule and areas to be established by the City Council upon recommendation of the Director of Planning and the City Planning Commission. Provide in the Charter and Zoning Code that, unless there are exceptional circumstances affecting the public interest, requests for zone changes should be processed for a given area only during the regularly-scheduled review of the area in which the property lies.

UNRAVELING THE LEGISLATIVE, ADMINISTRATIVE AND QUASI-JUDICIAL FUNCTIONS

ADMINISTRATIVE FUNCTIONS

Recommendation 7: Amend the Zoning Code to establish uniform regulations and criteria for specific uses named in the Code as being subject to review and approval with conditions. The consideration and approval of such conditional uses should be an administrative matter under the jurisdiction of the office of Zoning Administration with appeal to the Board of Zoning Appeals and any further appeal to the courts. (The Committee intends to submit more detailed recommendations and proposed legislation concerning conditional use permits in a subsequent report.)

UNCLASSIFIABLE USES

Recommendation 8: Amend the Zoning Code to provide for individual legislative consideration and approval of those few land uses which because of their unusual nature cannot be listed as permitted either automatically or as conditional uses in particular zones. Provide in the Code the criteria for the approval of such uses and require that specific written findings showing how the criteria are met must be adopted before approving any such use. Approval of such uses should be by ordinance, with specific conditions or requirements, after recommendation by the Planning Commission in the same manner as for zone changes. The unclassifiable category should be limited to uses such as airports, cemeteries, higher educational institutions, land reclamation projects and natural resource developments.

PLANNED DEVELOPMENTS

Recommendation 9: Planned developments should be treated under the type of conditional use provisions recommended in this report, and not as unclassifiable or supplemental uses.

"Q" QUALIFIED ZONE

Recommendation 10: The Committee strongly opposes the "Q" qualified zone concept. The desired objective should be met through condi-

tional use provisions as recommended in this report and through revision of the list of uses permitted in the various zoning classifications. If action is deemed necessary before revision of the Code as set forth in Recommendation 5, the procedure suggested should be followed.

ZONING ENFORCEMENT

Recommendation 11: Provide adequate staff in the Building and Safety Department for regular inspections and follow-up on compliance with zoning regulations, particularly the special requirements of conditional use and variance approvals. The City Planning Department should assist in enforcement by checking compliance with zoning requirements during area planning surveys and referring violations to the Building and Safety Department.

QUASI-JUDICIAL FUNCTIONS

VARIANCES

Recommendation 12: Clarify and strengthen the Charter limitations on the granting of variances as follows:

1—Set forth the quasi-judicial nature of variance determinations and prohibit use of the variance to accomplish purposes which should properly be accomplished through legislation.

2—State the over-all intent and purpose of the variance provisions as a means of insuring equal application of zoning regulations to properly in similar situations but prohibiting the use of the variance to grant special privileges.

3—Clarify and add to the requirements for the finding which must be made in order to grant a variance. Retain the basic principles contained in the present four requirements, but make them more specific. These tests for granting of a variance should be capable of realistic but strict application.

4—Provide that, in granting a variance, self-imposed

hardships are not a proper consideration.
5-Include more specific limitations on the circumstances under which variances from permitted uses are justifiable.

OFFICE OF ZONING ADMINISTRATION

Recommendation 13: Retain the present powers, relationship and civil service status of the positions of Chief Zoning Administrator and Associate Zoning Administrators.
Recommendation 14: Amend the City Charter to clearly define the authority

of a Zoning Administrator quasi-judicial making it clear that no actions shall be taken which require legislative authority.
BOARD OF ZONING APPEALS

Recommendation 15: Amend the Charter to change the title of the Board of Zoning Appeals to its original designation as the Board of Zoning Appeals and to shift the jurisdiction of the Board to appeals from determinations of Zoning Administrators. The Board should not have jurisdiction over matters outside the proper scope of its appellate function.

INSURING FAIR, UNDERSTANDABLE AND EFFECTIVE PROCEDURES

PROCEDURES

UNIFORM REQUIREMENTS

Recommendation 16: Amend the Municipal Code to provide simple and uniform procedural requirements governing applications, notices, hearings, time limits and appeals for all types of planning and zoning cases. Also provide that each agency having jurisdiction in such matters must formally adopt and publish any rules of procedure which are used.

PUBLIC NOTIFICATION

Recommendation 17: Provide timely and effective notification to all interested parties concerning hearings on planning and zoning cases through improvements in the record keeping and data processing procedures of the departments involved.

Recommendation 18: Establish a subscription service to provide notification to any interested individuals and organizations not otherwise notified.

CONDUCT OF HEARINGS

Recommendation 19: Require that all testimony and other statements of fact be given under oath at all hearings held by or on behalf of the City Planning Commission, Office of Zoning Administration and Board of Zoning Appeals.

Recommendation 20: Make a verbatim record of the testimony at each hearing and retain such records for three years.

FINDINGS IN ZONING CASES

Recommendation 21: Amend the Charter and the Zoning Code to clearly require that specific findings of fact be based upon competent evidence of record and showing conformance or nonconformance to the required criteria must be adopted in acting upon all zoning matters other than slight modifications as defined in the Charter and the Zoning Code.

APPEALS

Recommendation 22: Amend the Zoning Code to standardize appeal procedures for all types of planning and zoning cases, and include the following provisions:
1-Allow a twenty-day period following the original de-

termination for the filing of appeals.

2-Provide that those eligible to file an appeal include an applicant, any person aggrieved, the Director of Planning and the Planning Commission.

3-The written appeal must show specifically wherein the original findings and determination are not supported by the facts.

4-Appeals to the Board of Zoning Appeals, involving as they do interpretations of the provisions of the Charter and ordinances, are to be considered only upon the record of the original hearing and determination. No new evidence may be introduced. If new evidence is offered the case shall be returned to the agency having original jurisdiction for rehearing and redetermination.

5-Any modification or reversal on appeal must include written reasons detailing wherein the original determination is not supported by the findings of fact and must set forth specific revised findings.

6-Failure of the appellate body to act within fifty days after filing of an appeal for longer period when an extension of time is authorized shall constitute denial of the appeal.

TRANSFERS OF JURISDICTION

Recommendation 23: Amend the Zoning Code to standardize the procedure for transfer of jurisdiction to an appellate body when the original body fails to act, and include the following provisions:

1-Failure of the original authority to act within the fifty-day time limit (or longer period when an extension of time is authorized) constitutes neither approval nor denial but permits transfer upon written request of the applicant. The appellate body then assumes all responsibilities and duties imposed upon the original authority, and must act within fifty days of transfer of jurisdiction for longer period when extended by mutual consent.

2-Upon transfer of jurisdiction, public notification shall be made and a hearing held in the same manner as required for an original hearing.

RESOLVING THE PUBLIC INTEREST - A DEFINITION OF ROLES

CITY PLANNING COMMISSION AND BOARD OF ZONING APPEALS

APPOINTMENTS
Recommendation 24: In making and confirming appointments to the City Planning Commission and the Board of Zoning Appeals, the Mayor and the City Council must assume full and equal responsibility for insuring that persons of the highest integrity, competence and interest in civic and public affairs are selected.

ORIENTATION

Recommendation 25: Furnish new appointees with a written manual covering the nature of the planning and zoning functions, the role of the Planning Commission and Board of Zoning Appeals, and the legal, policy and ethical limitations within which they must operate. (The Committee will make more specific recommendations on this in a subsequent report.)

POLICY REVIEWS

Recommendation 26: The Director of Planning should arrange periodic meetings with members of the Planning Commission, the Board of Zoning Appeals, the City Attorney, Zoning Administrators and key staff members to review overall operations, consider basic policies, examine the relationship of zoning actions to such policies and reevaluate established procedures, and policies in the light of advancements elsewhere.

TERMS OF OFFICE

Recommendation 27: Amend the Charter to strengthen the system of overlapping terms of service on the City Planning Commission and the Board of Zoning Appeals as intended by the City Charter. This should be accomplished by providing that:

1-Appointments can only be made when an office becomes vacant.

2-Vacancy in an office occurs only upon:

a-Expiration of the term.

b-Removal accomplished by either:
1) Request of the Mayor or approved by the simple majority vote of the Council.

2) On initiative of the Council by a two-thirds vote. If disapproved by the Mayor, a four-fifths vote required to sustain removal.

c-By a commissioner or board member (filing a resignation with the City Clerk).

3-Appointments will be deemed approved if not acted upon by the Council within sixty days.

4-In the event the Mayor does not make an appointment within sixty days after a vacancy in an office occurs, the President of the City Council shall make the appointment subject to confirmation by the Council as in the case of appointment by the Mayor.

COUNCIL ACTION

Recommendation 28: Provide by Charter or ordinance that, for planning and zoning matters where time limits are not otherwise provided, each such matter must appear on the Council agenda each sixty days from the date of transmittal to the Council, until Council action is completed.

MAYOR'S VETO

Recommendation 29: Identify in the Charter and Code those matters that are legislative in character (as distinguished from administrative and quasi-judicial matters) and therefore to be adopted by ordinance with the right of veto by the Mayor.

PROTECTING THE PUBLIC INTEREST

PUBLIC INFORMATION

Recommendation 30: Strengthen the City's program of keeping the general public adequately informed as to the purposes, requirements and procedures of sound planning and zoning and as to the activities and decisions of City government in planning and zoning matters. This program should include the following:

1-Make available to the public simple and clear explanations of adopted objectives, policies, plans, regulations and procedures.
2-Place capable personnel in public contact positions and provide adequate training for such personnel.

3-Provide adequate records and staff at each branch office of the City Planning Department.

4-Prepare a statement to be available for use at public hearings and meetings which explains clearly and simply the procedures which will be followed in the matters to be considered.

CODE OF ETHICS

Recommendation 31: The Committee recommends that the City Council adopt a code of ethics for City officials and employees involved in planning and zoning matters. Prior to such action, the Council should undertake further study of this broad area including consideration of recent constructive developments elsewhere.

CONFLICTS OF INTEREST

Recommendation 32: Require by ordinance and amplification of the Charter that prior to consideration of any planning or zoning matter, each member of the City Planning Commission or Board of Zoning Appeals who has a private or personal interest in the matter must so state. If at any time during the consideration of a matter it becomes evident to a member that a conflict exists, he shall at that time so indicate. (The Committee will submit additional recommendations concerning conflict of interest in a subsequent report.)

PRIVATE COMMUNICATIONS

Recommendation 33: Enact an ordinance requiring that communications between interested parties and members of the City Planning Commission or Board of Zoning Appeals concerning any matter pending before the Commission or Board shall be limited to oral statements in open public meeting and written statements addressed to the Commission or Board as a whole. Engaging in private oral or written communications concerning such matters shall constitute a misdemeanor by all of the parties involved and misconduct in office by City officials.

FIELD INSPECTIONS - BOARD OF ZONING APPEALS

Recommendation 34: With respect to the Board of Zoning Appeals, field inspections by its members should be made only as an adjourned meeting of the Board and in the company of representatives of both sides of the issue. Findings of fact based upon inspections must be on the basis of such inspections by the Board as a whole.

CAMPAIGN CONTRIBUTIONS

Recommendation 35: Amend the Charter and enact municipal legislation to supplement State law concerning campaign contributions, including consideration of gifts and gratuities, which may affect planning and zoning, with a view to requiring itemized reports from all elected officials and candidates for elective office listing donors and amounts from each donor. Such reporting should include indirect contributions handled through campaign committees, campaign management firms or other individuals or organizations. All such contributions subject are to be developed in a subsequent Committee report.

GRAND JURIES

Recommendation 36: The Committee recommends that the Mayor and Council request the State legislature to expand the powers of grand juries to permit investigation of municipal planning and zoning matters on their own initiative.

Sweeping Reforms in Zoning System Urged

Report by Blue-Ribbon Committee Criticizes Officials, Offers 36 Ways to Improve Code

BY GEORGE REASONS
Times Staff Writer

The Citizens Committee on Zoning Practices and Procedures Tuesday recommended sweeping reforms in a report criticizing both elected and appointed city officials for abuse of the system.

The committee, headed by former Mayor Fletcher Bowron, said it agrees with the 1966 County Grand Jury that "campaign contributions, political obligations and friendships" influence zoning decisions.

The blue-ribbon committee also: 1—Singled out the Board of Zoning Adjustment for reaching arbitrary and illegal decisions and for treating the public with disrespect.

2—Criticized the City Council for practicing "minority rule" in allow-

ing individual councilmen to control zoning decisions in their districts.

At a press conference following delivery of the report to Mayor Sam Yorty and the City Council, members of the seven-man committee accused the City Council of shirking its responsibility in rubber-stamping the appointment of commissioners to the BZA and Planning Commission.

Without naming him, the committee also criticized Mayor Yorty for the practice of allowing commissioners to serve at his "sufferance" without reappointing them after their terms expire.

The committee said zoning decisions are being reached under outmoded procedures which permit "government by men instead of by law" at the expense of the public.

Suggestions Offered

In 36 recommendations outlined in the report, the citizens' committee proposed generally to correct abuses by:

1—Rewriting the zoning code, streamlining procedures and developing a comprehensive general plan (master plan) to provide a firm legal basis for decisions.

The changes also would minimize the discretionary power of appointed and elected officials in reaching zoning decisions.

2—Adopting a code of ethics for zoning officials and also strong laws prohibiting conflicts of interest, private contacts between zoning officials and interested parties in pending zoning cases, and requiring complete, itemized reporting of campaign contributions.

Please Turn to Page 10, Col. 5

ZONING REFORMS URGED IN REPORT

Continued from First Page

The committee also called on the Mayor and City Council to seek state legislation so the County Grand Jury can investigate city planning and zoning matters on its own initiative.

Invitation Needed

Under present law, the grand jury can investigate only if invited by the city or during the course of a criminal investigation.

The Bowron committee was appointed by the council and Yorty on the recommendation of the 1966 grand jury.

Other committee members are Rudolph Ostergaard, vice president of United California Bank; Dr. John C. Bollens, UCLA political science professor; J. Robert King, president of King Nutronics Corp., an aerospace firm; Gordon Whitnall, a planning consultant and the city's first planning director; and Averill H. Munger and Mrs. Robert Kingsley, members of the 1966 County Grand Jury.

Influence Claimed

In asking for the investigation, the grand jury said "influence can and has been and in all probability will be exerted through the medium of campaign contributions, political obligations and friendship."

The citizens committee set the stage for its recommendations in the first paragraph of an introduction to the report which declared the committee agrees with the grand jury statement.

"Tremendous wealth can be accrued from zoning actions," the report said. "Thus, the opportunity and incentive to grant zoning favors . . . present a fertile field for corruption."

Prosecution Problem

The committee pointed out that criminal prosecution in zoning cases is difficult because "necessary corroborating evidence is almost impossible to develop."

Questioned at the press conference, Bowron said the committee was not empowered to develop criminal evidence to present to the district attorney or grand jury.

He said if public complaints were accepted at face value, influence ped-

dling in zoning decisions in the past were "quite widespread."

Whether money has changed hands or not, the committee said favoritism in zoning not only has contributed to a "growing ugliness" in the city but has undermined public confidence in city government.

"We conclude," the committee said, "that the public welfare will be better served by not enumerating the many reported charges of suspicious illegal actions, but rather to recommend changes . . . which will make favoritism in planning and zoning matters very difficult."

Code of Ethics

One of the most important sections of the committee report calls for a code of ethics, conflict of interest laws and stronger laws in reporting political contributions.

The report recommended that the City Council adopt a code of ethics which would "be helpful" in the overall area of maintaining high ethical standards.

The report also recommended strong conflict-of-interest laws banning action by a commissioner on matters in which he had a private or personal interest.

Commissioners with interests would be required to declare them prior to consideration of the case in question.

Open Meetings

The committee noted the ban against secret meetings under the Brown Act, and said it also felt in zoning matters "private communications whether written or oral" should be prohibited between zoning officials and interested parties, including the mayor and councilmen.

If private communications occurred inadvertently, the official would be required to disclose it or face misconduct in-office charges and possible removal.

Deliberate violations would constitute a misdemeanor.

The committee said zoning matters are "nonpolitical" and all members of such commissions should have access to identical information in the public record.

Noting that political contributions have influenced zoning decisions, the com-

mittee declared the present system of reporting contributions "entirely inadequate" and recommended strengthening it to require detailed accounts of the contributors and how much each gave.

Exact accounting would be required not only of amounts contributed directly to elected officials but amounts also collected for them by campaign committees, and professional firms.

"We believe that a candidate should be held publicly accountable for all campaign contributions on his behalf," the committee said.

On the subject of appointments to commissions, the committee recommended that the City Council share equal responsibility for the quality of appointees.

Responsibility Cited

Asked at the press conference if the council had shirked its responsibility in the past by rubber-stamping the mayor's choices, Bowron replied: "Frankly, we think they have."

The committee pointed out that councilmen are elected in a particular district but owe a responsibility to the city as a whole in zoning decisions.

"Practices which permit a councilman individually to control decisions affecting his district is in effect a form of minority rule and should be eliminated," the report said.

The committee also criticized the practice under which individual councilmen delay zoning decisions by holding the file in committee or in their offices.

Removal Power

In recommending that the council assume equal responsibility for appointments, the committee also recommended that the council as well as the mayor have power to remove commissioners.

The council would be able to remove a commissioner by a two-thirds vote with the approval of the mayor and a four-fifths vote if the mayor vetoed it.

The committee expressed "serious concern" about the way the BZA has functioned in recent years, and the consequent loss of public confidence in the agency.

Wed 7/31

City Councilmen React Favorably to Report

Recommendations of Committee on Zoning Practices and Procedures Earn Praise

Recommendations of the Citizens Committee on Zoning Practices and Procedures drew favorable reaction Tuesday from members of the City Council.

Mayor Sam Yorty said he had not studied the report, but he was expected to comment on it at his news conference today.

Planning Director Calvin S. Hamilton said he would present his views to the Planning Commission Thursday.

Principal city planner Thomas Golden, however, told the council's Planning Committee that the report would be given prompt attention and that the department was "anxious to move on it."

Golden said some of the recommended changes might be accomplished without revisions in the code.

Nowell Motion

On the recommendation of Councilman Louis R. Nowell, the committee sent the report to the Planning Commission and Planning Department for study and recommendations.

Only six of the 15 councilmen said they had read the voluminous report, and several emphasized that they were only able to scan it.

But all agreed it was a significant contribution to the understanding of the zoning planning process.

And there was general agreement that the recommendations on a code of ethics, conflict-of-interest and full disclosure on campaign contributions would receive sympathetic consideration in the council.

Councilman Marvin Braude said he was "overwhelmed" not only by the scope of the report but by its "thorough review of all

the complicated problems regarding the zoning process.

"I think it is a foundation on which we can prepare effective reforms," he said.

Whether one agrees or not with the 36 individual recommendations, the "important thing," he noted, is that "here is information and study upon which judgment can be made."

Braude said he was "particularly delighted" that the commission submitted recommendations on a suggested code of ethics, conflict-of-interest disclosures and campaign contributions reporting.

"These are the three fields in which I have made recommendations and feel that reforms are urgently needed," he said.

The report, Braude said, should be studied by all councilmen, commissioners concerned with the planning process and all concerned citizens.

Another councilman who warmly endorsed the report was Ernani Bernardi.

He, too, placed special emphasis on the sections relating to ethics, conflict-of-interest and campaign donations.

Would Go Far

"We would go a long way toward solving many of our problems if a way can be found to implement the campaign contribution recommendation with enforceable penalties," Bernardi said.

(It recommends an itemization of donors and amounts and reporting of indirect contributions to independent committees or other organizations.)

Bernardi said the recommendation that the mayor and council request

the State Legislature to expand the powers of grand juries to permit investigation of municipal planning and zoning matters on their own initiative "was almost a necessity."

Appears Objective

Overall, he added, the report appears "rather objective" and there is "no indication that the committee pulled its punches."

In the final analysis, however, he cautioned, the report's real worth will depend upon implementation by the council and the mayor.

Councilman Robert M. Wilkinson said he was impressed by the committee's position that powers of the Board of Zoning Adjustment should be curtailed and that city officials should not act in matters in which they have personal or private interests.

And he termed full disclosure of campaign donations "a very good idea not only for elected officials but commissioners and other exempt officials as well."

Praised by Lampart

Councilman Paul H. Lampart praised the report as "erudite, intelligently prepared and clearly explained."

It faces the issue squarely, making many recommendations I can support," he said, adding:

"We picked the best people we could get and they gave us the best report they could. I don't see anything I would have to oppose on the council floor."

Councilman Arthur K. Snyder said he was "very much in favor of the report's stand on a code of ethics and full disclosure of campaign contributions," but that he would "have to give more thought" to suggested changes in planning and zoning techniques.

Councilman Edmund D. Edelman said he had looked at the document only briefly, but that "many suggestions appear to be very good."

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WEDNESDAY, JULY 31, 1968

Unfortunately, the City Charter, although clear as to intent, does not provide adequate restrictions against violation of this principle," the report said.

The committee criticized the mayor for failing to replace or reappoint commissioners whose terms expire and for replacing them before their terms expire "simply by appointing someone else."

Whitnall said Planning Commissioner Melville Branch's term expired in 1965 and he is serving at the mayor's "sufferance" with no idea of whether he is to be replaced or not.

Whitnall said threat of removal under such circumstances potentially could be used to control a commissioner's vote.

Called Improper

Whitnall called it "improper and dangerous" and said it defeats the intent of the charter.

To make sure commissioners are not subject to arbitrary removal, the committee recommended requiring that appointments could be made only when an office became vacant.

The mayor would be allowed to remove commissioners before their terms expire but he would need a majority vote of the council to do it.

The committee also recommended that the council president appoint commissioners to vacancies if the mayor fails to act within 60 days, thus preventing commissioners serving at the mayor's sufferance.

'Resignations' Hit

On a related matter, the committee condemned the practice of requiring commissioners to submit signed resignations when they are appointed for the mayor to use at any time.

Former Planning Commissioner Ellis A. Jarvis testified before the committee that he had been required to submit such in application.

"Such practices hardly contribute to the exercise of independent judgement on the part of appointees," the committee report noted.

To halt the practice, the committee recommended

that commissioners must file their resignations with the city clerk when they resign.

The committee expressed "serious concern" about the way the BZA has functioned in recent years, and the consequent loss of public confidence in the agency.

The report said citizens, too, lodged numerous complaints against the BZA charging:

1—Decisions were made at private conferences before public hearings were held.

2—Hearings were a "mere sham."

3—New Evidence

The board heard new evidence which it properly should not have considered.

4—The board acted "arbitrarily and capriciously" and reached decisions without supporting evidence.

5—Protestants were not given equal opportunity to present their case.

6—Protestants were "treated with disrespect" by the presiding officer, who almost without exception, exercised arbitrary control over the conduct of the hearings.

Bowron identified the presiding officer as Roger S. Hutchinson, who resigned after articles in The Times outlined how he consistently voted favorably on cases presented by a personal friend who was a zoning expediter.

7—Illegality Charged

The committee said the BZA in the past handed down illegal decisions and usurped the authority of the City Council by granting variances which produced the same effect as zone changes.

Many of the illegal variances were granted for service stations on property which the Planning Commission and City Council had refused to rezone for that or other commercial purposes.

A variance is designed to correct inequities between two identically zoned parcels of property.

"A variance should not and cannot legally be a substitute for a legislative zone change," the report declared.

The committee report

BZA must apply in granting variances and requiring precisely written findings which show the standards were met.

Field Trips Limited

The BZA also would be prohibited from considering new evidence in its deliberations but could consider only the record, as in court appeals.

In addition, individual board members would be prohibited from making field trips with the appellant unless the entire board and opponents in the case were present, too.

Numerous complaints were received about inadequate notice of pending zoning matters," the committee said. Sometimes notices weren't received at all or were received too late for interested parties to attend the hearing, the report said.

The committee recommended that notification procedures be strengthened and mailing lists be prepared by the city instead of the zoning applicant.

Technical Changes

The committee also recommended that testimony in zoning matters be taken under oath.

Most of the committee's recommendations called for technical and procedural changes to strengthen the legal basis for zoning decisions. Some new zoning classifications were proposed.

The major legal proposal called for development of a comprehensive general plan (master plan).

Zoning classifications are based on the general plan and zone changes are granted when they conform with the general plan.

Guide Unsatisfactory

But the committee pointed out that the general plan in use by the city is outdated and cannot serve as a satisfactory guide for future development.

The committee said this weakens the zone change procedure and leads to spot-zoning based on arguments and pressure instead of on law.

The committee recommended a step-by-step procedure for development of a satisfactory

ZONING REFORMS

Continued from 10th Page
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*Full citizens committee
Zoning Practices
Procedures*

Planning Chief Praises Panel's Zoning Report

Document Will Strengthen City's Program in This Field, Hamilton Declares

BY WILLIAM TULLY

Times Staff Writer

City Planning Director Calvin S. Hamilton Thursday praised the report of the Citizens Committee on Zoning Practices and Procedures as a document "that will strengthen the planning program in Los Angeles."

The report, released Tuesday by the blue-ribbon committee headed by former Mayor Fletcher Bowron, recommended sweeping reforms and criticized elected and appointed city officials.

Hamilton reviewed each of the committee's 36 recommendations for members of the City Planning Commission.

Some recommendations, he said, are already in effect or under consideration; some require further study or must await subsequent amplification by the citizens committee, and some are not the responsibility of the Planning Department.

Particular Criticism

The citizens committee singled out for particular criticism the Board of Zoning Adjustment for reaching arbitrary and illegal decisions and the City Council for allowing individual councilmen to control zoning decisions in their own districts.

Hamilton told the commissioners that the report was "a matter of policy."

"Therefore, he said, the role of my staff and me is to suggest for your benefit how you might structure your approach to the recommendations."

The commissioners generally agreed among themselves that the citizens committee criticisms did not specifically include the Planning Commission.

"I didn't read into (the report) any real criticisms of us. The Bowron committee was backhandedly complimentary to the Planning Commission," Commission President John J. Pollon said.

"The only criticisms are of form and substance over which we have no control, such as charter changes and code revisions for which we have been striving for a long time," he said.

Comprehensive Review

Nevertheless, Hamilton said his staff would prepare a more comprehensive review of the committee report, and the commissioners agreed to consider action at their regular meeting Aug. 29.

"We are very eager to get into the meat of this report and adopt as quickly as possible whatever elements of it would be in the interests of the public," Pollon said.

As an example, he said adopting the policy of taking testimony before the commission under oath is "a good idea."

Hamilton told the commissioners that some reforms would have to await the adoption of the general master plan for city development, which could be as far as two years away.

Hamilton also said his department will continue to assist the citizens committee in its long-run projects involving charter and code revisions.

Planning Report to Ask Priorities or More Help

Planning Director Says Overhaul Proposed by
Bowron Can't Be Effected With Present Staff

BY ERWIN BAKER

Planning Department. Priority schedules must be revised or additional manpower provided to permit implementation of recommended reforms in the zoning system, the Planning Commission will be advised Thursday.

City Planning Director Calvin S. Hamilton presented the alternatives in a report, outlining a proposed method of operation in studying the recommendations of the Citizens Committee on Zoning Practices and Procedures.

Last July 30, after a year-long investigation, a seven-member blue-ribbon citizen's committee, headed by former Mayor Fletcher Bowron, submitted to the City Council and Mayor Sam Yorty a 36-point program to correct what it termed abuses in the present planning-zoning system.

Sent for Recommendations

The council sent it to the Planning Department for evaluation and recommendations.

Hamilton will inform the commission through which a report to the council must be channelled, that work on nine of the proposals can begin promptly, but only under conditions to be determined by the lawmakers.

To begin studies immediately with present staff personnel, he said, there must be a "major revision of present priorities and production schedules" for the department's Special Studies Unit.

If, however, the priorities are retained and current levels of service and productivity are to be maintained, Hamilton said, two additional planning associate positions will be required to work solely on the nine recommendations.

Planning associates are mainly assigned the more difficult and high-priority council and commission studies, he explained.

Hamilton estimated it would take them approximately one year to finish the assignment.

Conflicts With Memorandum

Hamilton's report was in seeming conflict with an accompanying memorandum to the commission in which he said the nine recommendations mainly involve ordinance changes and added:

"(They) can be considered as short-run projects that would not require major staff time or resources for their completion and will not require major department reorganization."

Currently, Hamilton said, the special unit has sufficient personnel to deal only with:

1—High priority council and commission studies of amendments to the zoning code and the city charter.

2—Certain other limited types of studies and projects.

Hamilton pointed out that the nine recommendations requiring further study by the department will not be covered in subsequent reports to be filed by the committee.

One or more additional reports will contain suggested texts for proposed charter amendments and a few significant amendments to the mu-

nicipal code to effectuate certain recommendations," Hamilton said.

Therefore, he said, it "won't be possible for the department to make a definitive study of some of the recommendations until additional reports are received."

"It would not be particularly useful to duplicate the committee's efforts in those specific areas they intend to investigate in greater depth," he said.

Meanwhile, the city's chief planner said, the department could proceed to work on the following committee recommendations which would:

1—Provide by ordinance the adoption and amendment of the Comprehensive General Plan according to procedures specified by the Bowron committee.

2—Establish a procedure for review of the city's zoning map on a regularly scheduled area-by-area basis.

3—Provide for legislative action—either automatically or as conditional use—certain "unclassifiable" uses such as airports, universities and land and reclamation projects which because of unusual characteristics can't be suitably classified by zone.

4—Treat planned developments as conditional uses with uniform conditions specified in the zoning code.

(A Proposed Residential Plan Development District Ordinance is before the council's Planning Committee after being approved by the planning commission).

Conditional Use Permits

5—Expand and clarify provisions for conditional use permits under an ordinance which would compel a developer to improve property as stated in his application.

6—Amend the municipal code to incorporate in one section simplified requirements governing applications, notifications, hearings, time limits and appeals for all types of planning and zoning cases.

7—Require testimony under oath at all zoning hearings.

8—Standardize zoning appeal procedures to include a longer period to file a requirement to show proof where original findings and determinations are not supported by evidence. If appeals only on the record of the original hearing and determination and a requirement that reversals be based on specific findings of error in the original determination.

Standardize Procedures

9—Amend the zoning code to standardize the procedure for transfer of jurisdiction to an appellate body when the original body fails to act.

In a report to the committee last Aug. 1, Hamilton said that of the 36 recommendations, 13 are either in effect or a study is in progress, 16 will require further study and consideration and seven are not the primary responsibility of the planning department.

With respect to the blue ribbon committee's recommendations on a proposed code of ethics and conflict of interest—which drive to the heart of the committee's report—Hamilton noted that the commission had adopted its own code of ethics on Oct. 19, 1967.

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City Planning
Zoning Practice
Procedure

L.A.T. 9-2-68

Zoning Reform Must Be Expedited

ISSUE: Why does City Planning Director Calvin Hamilton now find such problems in implementing zoning and planning reforms?

"A Program to Improve Planning and Zoning in Los Angeles" is the rather modest title of an extremely significant study of a critical problem in City Hall.

The authors—a distinguished committee of citizens headed by former Mayor Fletcher Bowron—affirmed that planning and zoning decisions were highly susceptible to influence, peddling, and they offered a variety of proposals to improve the situation.

Their recommendations were the result of months of careful study by the committee members, who listened to dozens of witnesses and read pounds of official documents. Even some of the apologists of the status quo were willing to admit that the Bowron committee had performed a very important service to the city.

The thorough work of the committee, however, represented only a beginning in a real overhaul of the complicated procedures affecting city land use decisions.

But as Times City Hall reporter Erwin Baker notes elsewhere on this page, initial reaction to the committee report has somehow changed.

Calvin Hamilton, the controversial city

planning director, for instance, said after first reading the report that its nine main recommendations could be implemented by his department without any serious problem.

Changes, said Hamilton on Aug. 1, "can be considered as short-run projects that would not require major staff time or resources for their completion and will not require major department reorganization."

Less than four weeks later, Hamilton presented an ultimatum to the City Planning Commission in which he said that the implementation would require the hiring of two additional experts for at least a year, "major revision of present priorities and production schedules," or ignoring the whole thing.

The planning director didn't explain his 180-degree turn in attitude. And Councilman John S. Gibson Jr., chairman of the Council Planning Committee, is understandably annoyed. Gibson is considering a request to the council for the hiring of an outside expert to do the work that Hamilton now says his staff can't do.

Whatever the problem, the prompt evaluation and implementation of the Bowron Committee recommendations are so important that no personality problems should intervene. The Times urges that the Planning Commission and City Council get on with the job—with or without Calvin Hamilton.

L.A.T. 9-2-68

Zoning Reform: Is It Derailed?

BY ERWIN BAKER

Times City Hall Bureau Chief

Early promise of swift Planning Department and Commission action to implement sweeping reforms proposed by the Citizens Committee on Zoning Practices and Procedures apparently was premature.

More than a month after the committee's report, tagged urgent, was submitted to the department by the City Council for prompt evaluation and recommendations, it appears to be mired in a swamp of contradiction and indecision.

Disenchantment with the reverse order and slow motion antics of the department and commission has reached the point where Council Planning Committee Chairman John S. Gibson Jr. is seriously considering bypassing them completely.

*

Instead of awaiting word from the planners, Gibson has indicated he will seek the council's permission this week to employ a committee consultant to bring in "immediate" recommendations.

Gibson is hopeful of employing Hubert E. Smutz, who retired last January as chief zoning administrator after 26½ years in the post during which he built a reputation as "incorruptible."

Smutz, chief zoning administrator under former Mayor Fletcher Bowron, who headed the blue-ribbon investigating committee, has taken positions similar to many of the 36 recommendations aimed at eliminating alleged abuses in present zoning and planning procedures.

*7:40 p.m.
Citizens Committee
on zoning.*

At that time, also, commission president John J. Pollon noted that "we are very eager to get into the meat of this report and adopt as quickly as possible whatever elements . . . would be . . . in the interest of the public." And the quicker it was done the better, he said.

Last Thursday, however, the urgency and desire apparently had subsided.

In a report to the commission, Hamilton emphasized that the department's special studies unit, which would conduct the study, already was fully involved in top priority projects.

Either the priority schedule would have to be revised, he said, or two additional planning associates would have to be hired.

And it would be necessary for them to work full time for approximately one year on the nine recommendations, plus, perhaps, others, Hamilton said, because of the "difficulty" and "complexity" of the assignment.

Even the committee suggested additional staff, he claimed.

Hamilton would not be averse to employing four men for six months or six men for two months to do the job, but, in any event, he insists, it's a "policy decision" for the commission and council.

Vice President Melville C. Branch, whose erudition and eloquence often overwhelm his listeners, scoffed at the need for additional manpower.

"Every time we talk about doing something we hear requests for staff," he noted sarcastically.

*

But it was clear that the commission's ardor for immediacy has cooled. In response to Hamilton's virtual ultimatum, Pollon suggested a one-week continuance to permit further study of the recommendations.

But Commissioner David S. Moir said that wasn't enough time. So the commission agreed to another week's delay—to Sept. 12.

Meanwhile, Gibson is fuming at Hamilton's seeming take-it-or-leave-it attitude.

*Planning Commission
Citizens' Group*

Agreement on 21 of 36 Zoning Reforms Told

Planning Commission, Citizens' Group Reach Tentative Accord; Proposals Sent to Council

BY ERWIN BAKER
Times Staff Writer

Agreement "in principle" on 21 of 36 recommendations for municipal zoning and planning reforms has been reached by the City Planning Commission and members of a citizens' blue-ribbon committee, it was learned Sunday.

The recommendations, aimed at eliminating abuses, were sent to the City Council's Planning Committee by the Planning Commission.

In a letter to council committee chairman John S. Gibson Jr., the commission said its position on the 21 items is in accord with "the purpose and intent" of the recommendations by the Citizens Committee on Zoning Purposes and Procedures.

The seven-member citizens' committee, headed by the late Mayor Fletcher Bowron, submitted its far-reaching report criticizing both elected and appointed officials involved in the planning-zoning sessions last July 31.

Council Hearing Slated

The citizens' committee was appointed by Mayor Sam Yorty and the council on the recommendation of the 1966 County Grand Jury as a result of the jury's inquiry into zoning irregularities.

Gibson has scheduled a council committee hearing for Nov. 12 to review the 21 findings, which also represent the thinking of City Planning Director Calvin S. Hamilton and his staff.

Committee decisions will be forwarded to the full council for final action.

Another joint commission-citizens' committee meeting has been scheduled for Friday to consider the 15 remaining recommendations, the commission said.

Involve Important Conclusions

These recommendations involve some of the most important conclusions reached by the citizens' committee during its 14-month study.

They include, for example, questions of campaign contributions, conflict of interest and private communications between interested parties and Planning and Board of Zoning Adjustment Commissioners.

They also deal with recommendations on expanded grand jury power over investigations of municipal planning-zoning matters and the

proposed Residential Plan Development and "Q" ordinances.

The bitterly controversial RPD plan was sent back to the planning committee by the council two weeks ago to await a recommendation by the commission and citizens' committee.

The "Q" ordinance, which would compel a developer to improve property as stated in the application within a 2 1/2-year period or have it revert to its original classification, also is before the planning committee.

Opposed by Citizens Group

Both proposals are supported by the commission and department staff, but opposed by the citizens committee.

Forwarded to the council committee were the 21 proposals which would require charter and municipal code amendments. They relate to protection of the public interest, overall legislative policy, administrative and quasi-judicial functions and efforts to assure "fair, understandable and effective procedures."

One of the most important is a request to the council to adopt a code of ethics for city officials and employes engaged in planning-zoning matters.

Prior to such action, however, the council should "review recent code structure decisions elsewhere," the recommendation states without elaboration.

Inspection Recommendation

Also under the heading of "protecting the public interest," the report recommends that field inspections by Board of Zoning Adjustment members should be made only as an adjourned meeting whenever possible in the company of both sides of the issue.

"Findings as fact based upon inspections must be on the basis of such inspection by the board as a whole," the recommendation says.

Another "public interest" recommendation would strengthen the city's program to keep the general public adequately informed, as to purposes, requirements and procedures of "sound planning and zoning" and of city decisions on such subjects.

Other recommendations call for widespread procedural and code revisions.

Change in Policy Role of Planners Defeated

Fel. Hamilton, City Com. Chair, group

Council Votes 14-1 to Keep Power With City Commission.

BY ERWIN BAKER

Times Staff Writer

City councilmen Thursday reaffirmed the position of the Planning Commission as the policy-maker of the Planning Department.

Their action, by a 14 to 1 vote, was a defeat for the Citizens Committee on Zoning Practices and Procedures, which had recommended that the policy role be given the planning director and that the commission be made advisory.

The decision was made as the council began voting on a series of proposed changes in charter sections governing the city's zoning-planning process.

To Be Placed on Ballot

Approved revisions, combined in the form of an overall charter amendment or amendments, will be placed on the May 27 general election ballot.

Of the 17 changes proposed by two council committees, only two were acted on by the lawmakers Thursday, and the policy provision was the only controversial one.

It was one of 36 recommendations submitted by the citizens committee after a 15-month study last July 30. And it called for the planning director to be subject only to the "advice" of the commission.

But the council accepted the recommendation of its Planning and Charter and Administrative Code Committees, which retained the present wording assigning the commission "supervision and direction" over the director.

The committee, formed as a result of findings of zoning-planning irregularities and abuses by elected and appointed officials in a 1966 County Grand Jury report, noted that the charter already hands the director "control and management" of the department.

It also cited its own recommendation that the commission function in an advisory capacity to the director on policy matters involving the general plan, specific plans and zoning ordinances.

Councilman Thomas Bradley was the lone supporter of the citizens



group, whose first chairman was the late former Mayor Fletcher Bowron.

He argued that the director, now Calvin S. Hamilton, should be given "firm responsibility" as head of the department so the charter could be consistent on the subject.

Bradley's stand was opposed, however, by Planning Commissioner Melville C. Branch, who argued that municipal planning was "too broad" and "too important" a responsibility to be left to one man and "officials within a bureaucracy."

In an advisory capacity, "we would be there just as window dressing and talk," Dr. Branch complained. Administrative responsibilities should be left to the head of the department, however, he said.

Supported by 2 Councilmen

Dr. Branch was supported by Hamilton and Councilmen Gilbert W. Lindsay and John S. Gibson Jr.

Lindsay contended that the commission form of government has led to Los Angeles becoming the "cleanest city in the nation . . ."

"Out of 150 commissioners, 140-odd have been good, clean, decent citizens," he contended.

Hamilton said the basic question involved was the "type of general manager and commission and their ability to get together."

He indicated that he and the commission have been working harmoniously.

The council approved 15 to 0, two other proposed noncontroversial revisions which outlined the powers of the department and the director.

But over, until today, were other proposed revisions including key items involving the handling of conditional uses and periodic area-by-area consideration of zone changes.

Citizens Panel Accuses Lack of Clear Policies in Zoning System

Group's Final Report Hits Special Privilege, Recommends Legislation to Deal With Ethics and Conflicts of Interest

BY ERWIN BAKER

Lack of clear policies in the city's zoning system, instances of special privilege and flagrant examples of spot zoning were attacked Sunday in a report by a blue-ribbon citizens committee.

In its 41-page final report to the city council and mayor, the Citizens Committee on Zoning Practices and Procedures recommended special legislation, including formation of a group dealing with a code of ethics and conflicts of interest.

The committee especially exhorted the council for the sake of its dignity and responsibility to define and unequivocally establish in conjunction with the Planning Commission the basic policies covering conditional uses of land.

"Clearly defined policies," the report said, "do not now exist, and as a consequence, the present practice flagrantly violates the basic principle of sound, effective zoning."

Current policies, the report added, have led to "special brands of privilege, a breakdown in the integrity of the zoning system and some of the most flagrant examples of what amounts to spot zoning."

The committee reiterated its belief that there is a "fundamental weakness" in the present practice of processing certain types of conditional use permits through the Planning Commission and council.

In presenting its report, the result of more than two years of work, the committee said it believed at stake were fundamental issues of environmental quality, justice and equality before the law, effective management of public affairs and private ownership of property.

One of its critical findings, the committee reported, was that "a certain perspective is lacking on the part of both developers and officials in viewing the zoning process."

Zoning, the committee explained, has largely but improperly come to be viewed as something to be changed, bargained, over and influenced, "sometimes legitimately, sometimes illegitimately."

Aside from the injustices inherent in such a practice, the committee found this approach to zoning can

Please Turn to Page 30, Col. 5

provide the more than an impediment to the economic forces of urban development.

If its program is adopted, the committee said, it would permit the mayor and council to exercise effective policy and regulatory control over city development.

The seven-member committee was appointed by the council and Mayor Sam Yorty in March 1966 on the recommendation of the 1966 County Grand Jury.

In the course of an exhaustive investigation it uncovered numerous irregularities in the land-use process within the city.

First chairman of the committee was the late former Mayor Fletcher Bradford. He was succeeded by Rudolph Ostensgard, vice president of the United California Bank.

Other committee members are Dr. John C. Bolling, UCLA political science professor; J. Robert King, president of King Nutronics Corp., an aerospace firm; Gordon Whinnall, a planning consultant and the city's first planning director; a Dr. Avril H. Mungler and Mrs. Robert Kingsley, members of the 1966 grand jury.

Thirty-six recommendations for reforms in municipal planning and zoning administration were proposed by the committee in its first report last July, which criticized both elected and appointed officials for abusing the system.

Much of the committee's final report, titled "A Program to Improve Planning and Zoning in Los Angeles," was devoted to specific action proposals in support of the recommendations in the first report.

The proposals took the form of Charter amend-

A number of the 36 recommendations were incorporated in the Charter Amendment 1, which received overwhelming approval at last Tuesday's election.

The amendment tightened council control over zoning. For example, an applicant for a variance now has the right under the amendment to appeal to the council concerning decisions by the Board of Zoning Adjustment. The amendment also delegates control of the General Plan Advisory Board to the council and gives the mayor a greater voice in the operation of the General Plan.

While committee members supported the amendment as an improvement over existing Charter provisions, they expressed serious concern over the "weakening effect" the

While conceding that council had in modifying their recommendations, some improvements in procedure and approach in the planning-zoning field are underway, the report emphasized that the committee's legislative program would improve the framework.

As it did in its preliminary report, the committee placed considerable emphasis on proposals to govern "conduct in office," not only in the Planning Department but at all governmental levels.

The committee urged study of a uniform code of ethics embracing all city employees which would define "those acts and actions incompatible with the best interests of the city."

And it called on the council to adopt more stringent measures pertaining to conflict of interest, campaign contributions and private communications.

Specific proposals covering the entire range of "conduct in office" are pending before the Council's Governmental Efficiency Committee.

Action has been held up for weeks pending receipt of advice from the city attorneys' office as to how

the factor which may weigh heavily on the decision is the final shape of conflict-of-interest legislation now pending before the Legislature.

The committee criticized, however, the "present inadequacy" of pending bills and called on the city to "recognize its authority and accept its responsibility to supplement state law."

The committee urged the council to adopt specific provisions on conflict of interest covering intent, definition and disclosure and disqualification.

Quality Needed

In considering conduct in office, the committee said, "the city must obtain people of the highest quality of competence and integrity" to serve on commissions and boards.

And the mayor and council must assume full and equal responsibility for assuring such appointments through the selection and confirmation process, the report said.

In urging council action on campaign contributions, the committee scored state laws, contending they failed to require complete and itemized reports.

In its 1968 report, the committee agreed with the County Grand Jury's conclusion that "campaign contributions, political obligations and mandates influence zoning decisions."

More comprehensive reporting of campaign contributions is recognized by many people in various phases of political activity and government as being a key requirement in insuring that campaign financing is an honest, open and responsible activity, the report said.

Charter and municipal code changes which would regulate contributions, gifts or gratuities that could create a conflict of interest were proposed by the committee.

The proposed changes would require all candidates for office, officers and employees of the city to submit itemized reports of such donations, listing donors and amounts re-

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Citizens Committee Report on Zoning OK'd, Sent to Council

Changes in Procedure for Conditional Use Permits One of Changes Asked in Wake of Grand Jury Probe

BY JOHN KENDALL
Times Staff Writer

A citizens committee report on zoning, prompted by a County Grand Jury inquiry, was accepted Tuesday by the City Council's Planning Committee and sent to the council with recommendations for changes.

Councilman John S. Gibson Jr., who presided at Tuesday's meeting, said the report would be presented to the council as soon as possible.

The council must act by Feb. 26 if the recommendations for charter revisions by the Citizens Committee on Zoning Practices and Procedures is to go on the general election ballot in the May 27 city election.

One of the major changes proposed by the blue-ribbon committee headed by the late mayor Fletcher Bowron, is the way conditional use permits and planned developments are handled.

The Citizens Committee recom-

mended that questions of conditional use and development of planned units go through the Office of Zoning Administration and a Board of Zoning Appeals.

Such matters would no longer be handled through the routes of the City Planning Commission to City Council, and from the Board of Zoning Adjustment to Planning Commission to City Council.

If the citizens group's proposal were adopted, appeals would be handled by a newly named and created Board of Zoning Appeals, not by the City Council.

Nowell Objects to Suggestion

Councilman Louis R. Nowell objected to the committee's suggestion, favoring instead the placing of all zoning matters under the jurisdiction of the Planning Commission.

The Planning Committee approved his recommendation that the Planning Commission handle questions of conditional use permits and planned development with appeals to the City Council possible.

A spokesman for the citizens committee, Gordon Whitnall, who was Los Angeles' first city planner in the 1920s, said that appealing to the people's representatives had been the way.

He said zoning had been "shot through with holes" by the conditional use permit.

Whitnall called for the adoption of zoning ordinance for a conditional use permit and determination of standards for planned developments. He said that trying to deal with the problem by ordinance had led to success.

Grand Jury Investigation

He reminded Planning Committee members that the present system had led to the grand jury investigation.

The Bowron Committee was organized in April, 1967, and approved by Mayor Sam Yorty and the City Council after a Chatsworth zoning scandal in which Developer Bryan E. Gibson was convicted of grand theft, fined \$5,000 and placed on three years probation. Whitnall's position that condition-

ZONING REPORT

Continued from First Page through a new procedure was opposed by Dr. Melville Branch, a member of the City Planning Commission.

Branch read from a letter from the Planning Commission which stated:

"We believe it indefensible to treat these conditional uses — to become more numerous in the future to range in size up to square miles in extent — through a separate procedure by-passing the City Planning Commission, mayor and city council.

"Not only must applications for planned unit developments be examined individually as to their appropriateness, form, and phasing from city wide points of views, but standards cannot now be written which could justify an automatic right to insert such potentially huge or impactful changes in the pattern of the city."

"More important, due process must be provided in the granting of conditional uses through action by and appeal to the mayor and council, the people's elected representatives."

Branch told the councilmen that his and Whitnall's positions represent "two strong, utterly different conclusions."

Further Proposals

Other changes proposed by the citizens committee included:

- 1—Emphasis on the advisory role of the Planning Commission in legislative and policy matters.
- 2—Consideration of both the general plan and zoning map area by area on a regular time schedule to enable review and consideration of entire areas.

Gibson said he expected it might take the City Council three or four days to discuss and deal with the blue-ribbon committee's report.

file: City of LA
 zoning practices
 & procedures

Decision Time on Zoning Overhaul

ISSUE: *Would it be wise to eliminate right of appeal to the City Council and mayor as part of a planning reform package?*

City Council debate is scheduled to begin Feb. 5 on 36 recommendations from the blue-ribbon Citizens Committee on Zoning Practices and Procedures. Most of the suggestions, after council revisions, will be presented to the voters in charter amendment form at the May 27 city election.

After a 14-month probe into municipal planning the citizen group has offered a long-overdue proposal to bring order, curb influence peddling and hamper conflict of interest.

The Times is in agreement with the committee's intent and with most of its recommendations. But we are concerned over one key suggestion.

The committee would place all conditional use permits and planned unit developments under jurisdiction of a new zoning appeals board, wiping out the present Board of Zoning Adjustment. The new appointive board would have final say with no appeal to council or mayor by applicant or protestant.

In light of the citizens committee's earlier insistence that "all phases of government decision-making should be subject to public scrutiny," we find this recommendation disturbing.

So do both the council's planning

committee and the Planning Commission.

The latter declares:

"We find it indefensible to treat these conditional uses—to become more numerous in the future and to range in size to square miles in extent—through a separate procedure by passing the City Planning Commission, mayor and council."

The council committee offers a counter-recommendation: routing conditional use permits and planned developments to the Planning Commission, with appeals possible to the council and subject to veto by the mayor.

We believe this counter-proposal offers a more rational approach to planning reform. In the long run, the quality of zoning hinges on the integrity of men elected to office and of appointees to boards and commissions. Also, we think it unwise to force the citizenry to appeal planning decisions to courts of law rather than to its legislators.

As The Times series on conflicts of interest at City Hall revealed, and as a resulting number of court cases confirmed, there is immediate need for drastic overhaul of the total municipal zoning procedure.

But, in the final analysis, the interest of all will best be served by vigilant preservation of the traditional right to appeal decisions to democratically elected officials—and by open debate of the public's business in public meeting.

Zoning-Planning Reform Proposals

BY ERWIN BAKER
Times Staff Writer

Six months after receiving a blue-ribbon citizen committee's recommendations for sweeping reforms in the municipal zoning-planning system, the City Council has scheduled debate on several of the points Wednesday and Thursday.

Signs point to possibly the most controversial hearings in recent months.

Several proposed charter amendments for the May 27 general election ballot will be before the council.

Final action must be taken by Feb. 26 in order to qualify them for the ballot.

They stem from recommendations of the 7-member Citizens Committee on Zoning Practices and Procedures, which studied alleged abuses of the system for 15 months before submitting its report last July 31.

The committee, headed by the former Mayor Fletcher Bowron, was appointed by the mayor and council in April, 1967.

Developer Was Convicted

Its establishment followed a 1966 County Grand Jury investigation which disclosed zoning irregularities and led to the grand theft conviction of developer Bryan E. Gibson in a Chatsworth scandal.

The committee's report severely criticized both elected and appointed officials for abusing the zoning-planning process.

It agreed with the grand jury that campaign contributions, political obligations and friendships influenced zoning decisions.

And it accused the Board of Zoning Adjustment of arbitrary and illegal decisions and of treating the public with disrespect.

Many of the grand jury findings coincided with conclusions in a survey by The Times of the city's zoning-planning policies.

The Citizens Committee's 36 recommendations generally intended to reform the system by:

1—Rewriting the zoning code, streamlining procedures and developing a comprehensive general plan to provide a firm legal basis for decisions. At the same time, discretionary power of appointed and elected officials in reaching zoning decisions would be limited.

2—Adoption of laws governing a code of ethics for zoning officials at

PLANNING

ingled from Third Party

as conflicts of interest private contacts between such officials and those interested in zoning cases and reporting of zoning contributions.

over a four-month period by the Planning Charter and Advisory Commission of the City Council. It was led to recommendations or amendments first.

While the citizens committee and commission are in agreement, either in principle or generally, on most of the 36 recommendations, they are irreconcilably opposed on 14 of them.

Opposed on some recommendations, the citizens committee and commission are in agreement, either in principle or generally, on most of the 36 recommendations, they are irreconcilably opposed on 14 of them.

Under the citizen committee plan, the BZA, presently a 5-man citizen board appointed by the mayor with council confirmation, would be replaced by a 7-member board.

Dr. Melville Branch, a planning commissioner, declared that such a procedure would be "indesirable" in bypassing the commission, council and mayor.

He declared the city must guarantee due process in the granting of conditional uses and that such assurance could be provided only through appeal to the people's elected representatives.



How many ways have you called me? Let me count the ways.

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the year figure, the office plan to take releases covering a number of projects, including a campaign committee, which would be established through the proposed charter amendments. It would be approved by the council.

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The committee's report severely criticized both elected and appointed officials for abusing the zoning-planning process.

L.A.T. 2/3/69

Conflicts Over Zoning Reform Proposals Erupt at Hearing

BY ERWIN BAKER

Times Staff Writer

Conflicts over proposed reforms in the municipal zoning-planning system came to the surface Wednesday as the City Council opened hearings on suggested charter amendments for the May 27 election ballot.

After listening to spokesmen for the Citizens Committee on Zoning Practices, the Planning Department and Commission, Human Relations Commission and the public, the council scheduled possibly climactic debate for today.

Some lawmakers predicted that voting on the controversial amendments would at least begin today. Final council action must be taken

by Feb. 26 to qualify the issues for the ballot.

At the end of Wednesday's session, lines were clearly drawn between the citizens committee and planning officials on two key proposals.

As submitted to the council by its Planning Committee, they would:

1—Assign to the Planning Commission decisions on virtually all conditional uses, with the right of appeal to the council.

At present, many conditional uses are submitted to the Board of Zoning Adjustment and cannot be appealed to the council.

2—Provide for zone changes on an area by area, periodic basis rather than upon the filing of applications or initiation by the council or commission.

Both proposals were discussed in the 36 recommendations submitted to the council by the citizens committee, which was appointed in April, 1967, after the 1966 County Grand Jury reported abuses in the city's zoning-planning process.

Disclosures by the grand jury, which advocated sweeping reforms in the system, led to the conviction on grand theft of developer Bryan E. Gibson in a Chatsworth case.

After a 15-month study, the citizens committee, headed by the late former Mayor Fletcher Bowron, submitted a report severely critical of elected and appointed officials.

It charged that campaign contributions, political obligations and friendships influenced some zoning decisions and accused the Board of Zoning Adjustment of arbitrary and illegal decisions injurious to the public.

Gordon Whitnall, the city's first planner and spokesman for the blue-ribbon citizens groups, repeated some of the allegations in an opening 50-minute speech.

Please Turn to Page 3, Col. 1

L.A. 2/6/69

Continued from First Page

He urged approval of the committee's recommendation, rather than the one by the Planning Commission, that the council be excluded from handling conditional uses.

Instead, he said, they should be handled by an Office of Zoning Administration, with appeal only to a newly created Board of Zoning Appeals.

Beyond the board, an appeal could be carried only to the courts.

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Exclusion Asked

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Instead, he said, they should be handled by an Office of Zoning Administration, with appeal only to a newly created Board of Zoning Appeals.

Beyond the board, an appeal could be carried only to the courts.

Whitnall asserted that the "most regrettable discoveries" of the 1966 grand jury, as well as subsequent findings by the 1967 and 1968 juries, all involved conditional uses channeled through the Planning Commission and council.

Whitnall declared that permitting appeals to the council is "altruistic," but he raised the question of whether decisions were not governed by political considerations.

"It invokes an element of political expediency," Whitnall declared.

This drew a mild rebuke from Councilman Brian Bernardi, who was presiding.

Bernardi observed that he didn't think the integrity of councilmen should be considered.

Whitnall apologized for any such implication, but observed that "there is a temptation to resort to improper procedures" as outlined by the grand jury.

Whitnall, urging approval of the committee's proposals, complained that the "significance" of the Planning Commission's position was "to deny to the public the right to pass on the judgment and recommendations of the citizens committee."

The white-haired former city official conceded that during the period of the committee's investigation the conduct of the Board of Zoning Adjustment was "reprehensible."

But he praised the present board for doing a "very sincere job in carrying out its duties."

In reply to Whitnall, Dr. Melville Branch, a planning commissioner, declared that important cases should be handled by the City Council.

Whitnall's other major point was that zoning decisions should be made on an orderly basis through periodic reviews on an area-by-area plan.

Spot Zoning
Whitnall said the committee's primary purpose in proposing the amendment was to avert a case proceeding on longman charges.
The present procedure is a case-by-case procedure, which undermines confidence in the zoning pattern and any inefficiency procedure for both the city government and the public.
At his news conference Mayor Sam Yorty said that in general he inclined to agree recommendations of citizens committee, but sided with the Planning Commission's stand on issue of the council serving as an appeal body.
Asked if he thought that he should have the right to veto conditional use decisions, currently denied to him by the charter, Yorty responded, "I certainly do."

City Council Approves Zoning-Planning Shifts

Recommendations of Some Groups Ignored During Noisy Session Lasting Into Evening

BY ERWIN BAKER

Times State Writer

Significant changes in the municipal zoning-planning process were approved Wednesday by the City Council in a noisy 6½-hour session that lasted into the evening.

The council adjourned with its job still incomplete at 6:32 p.m. after a record 31 roll calls.

It scheduled a final session for Friday when concluding arguments are expected to be presented on charter changes proposed for the May 27 election ballot.

The council has until Feb. 26 to instruct the city attorney to draft the appropriate resolutions.

Friday's meeting will mark the seventh day of council debate on the controversial proposals, which would make substantial alterations in the charter provisions governing planning and zoning.

In the welter of motions and sometimes angry charges and counter-charges, the council disregarded several recommendations of the Citizens Committee on Zoning Practices and Procedures, the Planning Commission and its own Planning and Charter and Administrative Code committees.

Dissatisfaction Indicated

Gordon Whitnall, spokesman for the blue-ribbon Citizens Committee, whose recommendations for reforms in the system initiated the council review, indicated deep dissatisfaction with the lawmakers' actions.

An indication of his position was evident in his reaction to one of the council's key decisions Wednesday in voting 9 to 3 to give itself and the mayor power to determine which conditional use items should be subject to appeal, and to whom.

On the motion of Councilman Ernan Bernardi, both determinations would be made by ordinance which Bernardi said he would attempt to present to the council.

One of the citizens committee's recommendations called for the Office of Zoning Administration to handle conditional uses, with appeals limited to a new "board of zoning appeals."

A.T. FEB 20 1969
It would have been inserted in the charter and would have virtually eliminated the Planning Commission, council and mayor from consideration of conditional use appeals.

Whitnall charged that the council's action, in effect, would perpetuate conditions which led to the county grand jury's 1966 investigation of municipal zoning-planning and its condemnation of elected and appointed officials for abusing the process.

Bernardi and other councilmen, however argued against the freezing of such a provision in the charter, as suggested by the committee.

Principal city planner Thomas Golden told the council that of the present 43 categories of conditional uses, only 10 are directly appealable to the planning commission and council, with the mayor exercising the veto power.

Appeal of Others Limited

And of the remaining 33, he said, seven are appealable to the council through the Board of Zoning Adjustment. Another 26 are handled by the zoning administrator, with appeals limited only to the BZA, he said.

Bernardi declared his proposal would list by ordinance all categories of conditional uses and then permit the council to decide which ones should be placed under the jurisdiction of the council and mayor, the planning commission, the zoning administrator and BZA.

In other major actions, the council:

1—Eliminated a section which would have required periodic area-by-area review of zoning maps, but retained the same requirements for the general plan. Opponents charged the deletion left the section virtually meaningless.

2—Sustained the present charter provision which designates the Board of Zoning Adjustment as a final court of appeal on land use variances. Critics battled unsuccessfully to vest final appeal in the council and mayor, saying the provision has been primarily responsible for intrusion of gas stations and markets in residential areas.

3—Prior to the variance action, the council adopted a provision which would bar the granting of a variance for a "special privilege inconsistent" with limitations on other properties in the area.

But opponents charged that the council, by removing the words "primary use" before "limitations" and substituting "intended use" vitiated its effect.

Chief Zoning Administrator Arthur Degan, however, insisted that some "compatible uses" were not "primary uses."

HARRISON GRAY OTIS, 1881-1917 HARRY CHANDLER, 1917-1944
NORMAN CHANDLER, 1944-1960

OTIS CHANDLER
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8-Part II WEDNESDAY MORNING, JUNE 4, 1969 2*

The Times' official position on issues is expressed only in the two columns below. Other material on this and the next page is the opinion of the individual writer or cartoonist and does not necessarily reflect that of The Times unless otherwise indicated.

Zoning: Plans for Reform

ISSUE: Much of the work of zoning reform remains undone. Will City Hall now pursue the citizens committee's recommendations?

Zoning in Los Angeles has largely come to be viewed as "something to be changed, to be bargained over, and to be influenced—sometimes legitimately, sometimes illegitimately."

A special citizens committee thus renewed its call for major reforms in zoning laws and their administration. The urgent warning dare not be ignored by a city that already has experienced too much abuse and outright corruption in zoning matters.

To prevent more of the scandals that led to its creation under former Mayor Fletcher Bowron, the Citizens Committee on Zoning Practices and Procedures made 36 proposals for reform last July.

The committee's final report, released this week, contains specific proposals for legislative action—including the all-important subjects of ethics, conflict of interest and campaign contributions.

Several of the committee's recommended City Charter amendments, in somewhat watered-down form, were approved by voters in last week's balloting.

The City Council, however, refused to follow the committee's advice on new rules governing conditional use permits. "Clearly defined policies do not now exist," the committee said, "and as a consequence the present practice flagrantly violates the basic principles of sound, effective zoning."

Councilmen also must find ways to solve the fundamental problems of conflict of interest and campaign contributions.

Present statutes simply do not protect the public from those who would use their office for their own gain or to grant favors to friends. Nor do current laws require candidates for local office to report all

of their campaign contributions, direct and indirect.

The citizens committee affirmed The Times' findings that conflict of interest occurred all too often in City Hall zoning cases. Four commissioners involved either resigned under fire or were transferred.

The committee would amend the Charter to read: "No officer or employe of the City shall participate in or act upon or vote upon any matter in which there is or might reasonably appear to be a substantial conflict between his personal interest and the public interest."

That unquestionably is an improvement upon the present rules. But the qualifying word "substantial" is troubling.

How substantial is "substantial"?

Does the conflict have to be gross to be objectionable? And what about officials who do not vote yet lobby their colleagues?

We believe that any and all conflict is offensive to the public which confers its trust and its authority upon either elected or appointed officials.

Safeguards against such abuse of office should be enacted as charter amendments rather than by council ordinance. So should the requirement of full disclosure of all campaign contributions—including adequate penalties to assure compliance.

A code of ethics, moreover, ought to be adopted and enforced for all municipal officials and employes. The Times agrees with the committee that "the paramount consideration is that public actions are to be taken in the public interest. All proposed regulations should be directed toward this goal."

And this goal should motivate the council and mayor not only to develop the most effective legislation but also to make certain that all commission appointees meet the highest standards of integrity.

Exhibit 7

CONVICTED ON Y CHARGE

Jury Rules Ex-Councilman Took \$11,000 in Zoning Case

BY BOB COFFEE

Mayor City Councilman Thomas D. Shepard was convicted Wednesday of accepting an \$11,000 bribe in a zoning case.

The jury acquitted the 45-year-old defendant of a charge of bribery and returned to the court house with a verdict on a charge of accepting a bribe.

Shepard, who was not indicted until the jury was in the room in the Superior Court building, was convicted on a charge of accepting a bribe.

The jury also returned a verdict on a charge of accepting a bribe. Shepard was found guilty of accepting a bribe.

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BIG INNOVATORS Police Changes Coming From Small Cities

BY DEBRA GIBSON

Police departments in small cities are beginning to experiment with new techniques and equipment.

It is expected that the number of police departments will increase in the next few years.

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Illustration of a group of people, possibly a political gathering or protest.

GOP Says Election Victories Show Support for Viet Policy

Nixon Claims New Governors of Maryland and Virginia as Marxist Client Slight Majority Spoke Out in Voting

Republican Party officials claim that the election results show support for the Vietnam policy.

Nixon claims that the new governors of Maryland and Virginia are Marxist clients.

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Shepard Convicted on Bribery Charge

Ex-Councilman Held Guilty of Taking \$11,000

BY BOB COFFEE

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Southland Gets Rain as Storms Approach

Southland gets rain as storms approach. The weather is expected to be cloudy with some rain.

Presidential Campaign Tests Ailing Dominican Democracy

Presidential campaign tests ailing Dominican democracy. The campaign is expected to be a test for the Dominican Republic.

Southland Gets Rain as Storms Approach

Southland gets rain as storms approach. The weather is expected to be cloudy with some rain.

Seale Held in Contempt, Gets Four-Year Term for Outbursts

Seale held in contempt, gets four-year term for outbursts. The court has ruled that Seale is in contempt of court.

Razor Blade-in-Apple Story Was False, Six Girls Confess

Razor blade-in-apple story was false, six girls confess. The girls have admitted to the story.



DRAWS PRISON TERM—Thomas D. Shepard, former city councilman, just after being sentenced to prison on bribery conviction. Times photo by George E. Fry

Ex-Councilman Shepard Gets 1 to 14 Years on Bribery Count

Will Appeal November Conviction in Land Zoning Case; Judge Says Term May Serve as Deterrent to Others

BY RON EINSTOSS
Times Staff Writer

Former City Councilman Thomas D. Shepard was sentenced to state prison Thursday for one to 14 years.

He was convicted in November of accepting an \$11,000 bribe in a Canoga Park zoning case.

In sentencing the 44-year-old Shepard, Superior Judge Pearce Young said he believed a prison term would serve as a deterrent to others who hold offices of public trust and confidence.

The jurist explained that in considering his decision he was taking into account his own experience as an elected public official.

Judge Young served two terms in the State Legislature as an assemblyman until his appointment to the bench in 1966.

Attorney Phil Silver, who unsuccessfully argued for a new trial for Shepard, did win his client a stay of execution pending the posting of a \$5,000 appeal bond.

Appeal on Several Grounds

Silver said he would appeal on several grounds but primarily that the evidence was insufficient to justify a conviction for the crime of bribery.

Shepard, who did not seek reelection last year to his West San Fernando Valley seat on the City Council, was found guilty of one count of bribery by a jury on Nov. 3.

It was his second trial. The first ended a year ago this month when another jury was unable to agree on a unanimous verdict.

The crime of bribery also carries the penalty of permanent disbarment from holding public office.

Shepard could have been placed on probation, but only with the consent of the prosecutors—Dep. Dist. Atty.

Michael J. Montagna and Dep. Atty. Gen. Gordon Rose.

Montagna told the court his office agreed with the recommendation of Dep. Probation Officer Clifford Clarke that probation should be denied.

Clarke said Shepard failed to meet his obligation as a public official "to adhere to a required code of ethics and behavior."

Shepard also, according to Clarke,

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SHEPARD SENTENCE

Continued from First Page
did "irreparable harm not only to himself but to the community as a whole."

Although Shepard would be an "excellent" candidate for probation (based on his background), Clarke said, such a sentence would serve to condone his activities.

Shepard, who is now in the import business, declined to offer any comment after he was sentenced.

Silver said he instructed his client not to make any statements.

Shepard was indicted in September, 1963, along with former Recreation and Park Commissioner Mel Pierson on charges of conspiracy and bribery in connection with zoning matters in the San Fernando Valley.

His case later was severed from Pierson's.

Pierson, meanwhile, sought an order barring his prosecution and still is awaiting a decision from the State Court of Appeal.

Pierson, who later was indicted on other bribery charges relating to the awarding of city architectural contracts, contended in his appeal that he was not in a position to take official action on zoning matters.

Monday Hearing

His bribery case involving city contracts was submitted to Superior Judge Harold J. Ackerman, who is scheduled to hear arguments on the matter Monday.

During his trial, Shepard was charged with receiving \$18,700 in three separate transactions involving:

- 1—The rezoning in 1964 of seven acres in Canoga Park from agriculture to R-3 (multiple dwellings).
- 2—The rezoning in 1965 of nine acres in Reseda, also to permit the construction of multiple dwellings.
- 3—The granting of a conditional use permit in 1964 for the construction of a condominium complex on 92 acres in Chatsworth.

One Acquittal

He was acquitted on the Reseda matter and the jury was unable to reach a verdict on the Chatsworth case. The charge was dismissed Thursday.

He was accused of accepting a \$1,500 campaign contribution and \$1,200 loan in the Reseda case and a \$3,000 campaign contribution in the Chatsworth matter.

At the time of Shepard's conviction, Silver said it was "the greatest miscarriage of justice in the state's history."

In court Thursday, however, in arguing for a new trial, Silver conceded that Shepard's action in the Canoga Park case may have constituted a conflict of interest—which is punishable at least in part by removal from office.

The Canoga Park matter involved land adjacent to the then-Elg A. discount store near Canoga Ave. and Parthenia St.

Arthur Toll, an attorney and one of the four owners of the property along with Joe M. Arnoff, Gerald

Chase and Wallace White, applied for rezoning on Feb. 21, 1964.

The City Planning Commission voted to recommend denial of the rezoning, but the matter was appealed to the City Council and approved by its Planning Committee in August, 1964.

According to grand jury and trial testimony:

—Shepard approached Arnoff for a \$10,000 loan, just after the Planning Commission recommended the rezoning be denied.

—He received a \$10,000 check, plus an additional \$1,000 to pay the first year's interest, on Aug. 13, 1964.

—Shepard made no attempt to repay either the principal or interest until after he learned of the investigation many months later.

Montagna and Rose contended that money Shepard received from Arnoff's group constituted a bribe.

Vetted by Yorty

After the City Council voted to approve the rezoning, the matter was vetted by Mayor Sam Yorty.

Yorty's objection, however, was withdrawn after Arnoff and his partners paid an additional \$21,000 — or \$3,000 per acre.

The money allegedly was passed on to Pierson and it is that transaction which is the basis of part of the prosecution's case against the former city commissioner.

There is no evidence that Yorty received any of the money.

Although the mayor's action in withdrawing his objection was characterized in testimony as unprecedented, Yorty said he did so because he realized he had made a mistake in vetting the matter.

'Mercy' Denied

Before Shepard was sentenced, Silver urged Judge Young to avoid the "pound of flesh doctrine" in deciding how to handle his client's case.

"Be lenient and hold out the hand of mercy," Silver pleaded.

Judge Young denied the request, however, stating that he believes a prison sentence for the crime of bribery will serve to deter others.

The power to remove, he said, is the power to create great wealth.

Using that power wrongfully, according to Judge Young, "is just as bad as stealing public money."

The jurist explained that ordinarily he would consider probation for a man with Shepard's background, but said he believes that anyone who accepts a position of public trust and confidence has a greater responsibility than other citizens.

He made the comment in answer to a statement by Silver in which the attorney said that Shepard, just because he was a public official, should not be treated any differently in considering probation than anyone else.

Shepard has until Monday morning to post bail.

When asked for his reaction to the case, Mayor Yorty replied, "I have no comment at this time."

Exhibit 8

West Valley Property Owners' Association

P.O. Box 170

Canoga Park, California

A Non-profit Corporation

February 11, 1969

Link
Mr. L.E. Timberlake
President, City Council
Room M-45
City Hall
Los Angeles, Calif.

BY *[Signature]* DEPUTY
CAYTON
CITY CLERK

Ref: Citizens Committee on Zoning Practices and Procedures
Council File #132,460, dated January 21, 1969

Gentlemen:

It is respectfully requested that the following statement be read into the record of the deliberations presently being conducted by the City Council on the abovementioned Council File item.

In 1966 a mandate was delivered by the Grand Jury to enact proper zoning practice reforms to prevent a re-occurrence of the shocking scandals surrounding certain zoning cases. Since that time, we have seen several public officials brought to trial and convicted on various charges. One case, still before the courts, involves a member of the Los Angeles City Council.

The Citizens Committee on Zoning Practices and Procedures has proposed a number of recommendations, which we as homeowners feel constitutes a "Bill of Rights" that would go a long way toward guaranteeing us reasonable assurance that the Master or General Plan in each area will be upheld.

We have recently conducted a survey of homeowners in the West San Fernando Valley on a number of subjects. Among the results of this survey, one fact stands out: the confidence on the part of the public in their elected officials has been severely shaken. Homeowners are becoming increasingly critical of the local government that enacts legislation and zoning decisions that adversely effects their property.

The homeowners in the West Valley feel that the Citizens Committee recommendations be placed on the ballot intact, allowing the voters to decide who should have the final authority on zoning matters. We feel that it should be a judicial matter, rather than a legislative decision. It is our considered opinion that the City Council has a moral obligation to the public to allow this matter to be presented to the electorate in the form in which it was written, rather than having it emasculated through the elimination of the recommendations on the procedures covering conditional use.

RECEIVED

FEB 13 1969

L. E. TIMBERLAKE

Sincerely,

[Signature]
Hyron Slater, President

FILE

Exhibit 9

A PROGRAM TO IMPROVE PLANNING AND ZONING IN LOS ANGELES

**CITIZENS COMMITTEE ON ZONING PRACTICES AND PROCEDURES
FIRST REPORT TO THE MAYOR AND CITY COUNCIL**

LOS ANGELES, CALIFORNIA / JULY 1968

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Sam York

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ON ZONING PRACTICES AND PROCEDURES**

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Mayor, City of Los Angeles, 1938-1953
Judge, Superior Court, 1926-1938, 1956-1962

Rudolph Ostengaard, Vice Chairman

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Planning Consultant
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First Director of Planning, City of Los Angeles, 1920-1930

July 1968

Honorable Sam Yorty, Mayor
Honorable Council
City of Los Angeles

Council File No. 132,460

Gentlemen:

The 1966 Los Angeles County Grand Jury, at the completion of its year's work, submitted a special report entitled, "Zoning Study Report and Recommendations." Referring to its investigation of a complex zoning case in the West Valley section of Los Angeles, the report stated that:

... evidence we heard demonstrated that influence can and has been and in all probability will be exerted through the medium of campaign contributions, political obligations and friendships.

In the spirit of hope for continuing progress in the field of efficient and honest governmental practices, the Grand Jury made eight specific recommendations relating to the subject matter and reached the following conclusion:

In conclusion, the Grand Jury has heard much evidence that demonstrates existing wrongs in the field of zoning administration which are subject to correction. Yet our study was one limited to evidence growing out of only one case. It is apparent that a projected and in-depth study of this field is not only overdue, but one which would be invaluable to the interests of our community. It is our recommendation that such a study be undertaken as soon as possible. While it is not within our purview to set forth guidelines for such a study, common sense dictates that such a study should be undertaken by an agency which is in no way answerable to any of the city agencies which are objects of the study itself.

On December 20, 1966, Mayor Yorty filed a message with the City Council inviting the attention of that body to the report of the Grand Jury. He requested "such a study be instituted to undertake a review of present zoning and planning practices, procedures, and policies and that a report and recommendation on this subject be made to the Mayor and the City Council."

Subsequently, on January 19, 1967, the City Council adopted the recommendation of its Planning Committee "that a citizen committee consisting of seven members, three to be appointed by the Mayor and four to be appointed by the President of the City Council from names submitted to him by individual Councilmen, be established and that the 1966 Los Angeles County Grand Jury report entitled 'Zoning Study Report and Recommendations' be referred to such citizen committee for report and recommendations." Upon appointment of Committee members, the Committee held its initial meeting on April 25, 1967.

This is the Committee's first report, which contains general recommendations to the Mayor and Council, arrived at unanimously by the Committee after many months of conducting hearings, sifting evidence, receiving suggestions for improved zoning practices, and holding discussions with individuals and organizations. We have listed these individuals and their affiliations in Appendix F to this report.

We have also set forth in detail in Appendix A a description of the background and organization of the Committee with the reasons for its establishment, together with a section summarizing the discussions between elected officials and the Committee. After these discussions, the Committee issued a public statement of its objectives:

The Committee considers that the reasons for its existence are to inquire into the entire subject of zoning in the City of Los Angeles, including the adequacy or inadequacy of applicable law, policies and practices whether legally sanctioned or not; to identify and reveal, if possible, the original purposes that motivated establishing the practice of zoning; to determine, if possible, whether these purposes are being realized or not and, if not, why; and, finally, to recommend such changes in law or practice as it believes necessary to justify public confidence in the practice of zoning, but equally important, to make available to the public an understanding of the subject so clear and comprehensible as to make it increasingly difficult for anyone, serving in any capacity, to deviate from proper and effective policies and practices.

As a result of our investigation, it has become clear that the basic solution to the problem of improper zoning practices is an adherence to the principles of planning and zoning and the adoption

of laws and procedures which clearly differentiate between the legislative, administrative, and quasi-judicial processes of government. Many of the present problems result from deviations from these basic principles. There can be no adequate consideration of zoning practices without considering, at the same time, the principles and practices of city planning in general. Our findings and recommendations take into account this essential relationship.

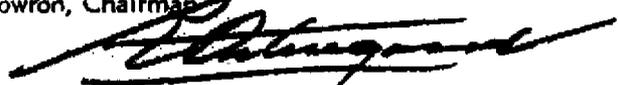
We have not gone into the over-all subject of organization and administration within the City Planning Department since this type of examination is not within the scope of the Committee's work; such examinations are conducted periodically under the management audit program of the City Administrative Officer. Nevertheless, because of certain proposals and criticisms received by the Committee, a few of our recommendations touch upon aspects of this subject.

The Committee believes that this first report will provide the general guidelines which will insure good planning and zoning practices in the City of Los Angeles. In one or more later reports, the Committee will present suggested texts of proposed Charter amendments and a few significant new or amendatory ordinances calculated to carry into effect the various recommendations herein set forth.

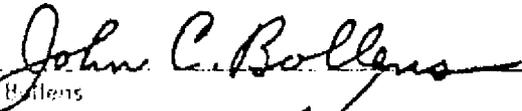
The Citizens Committee on
Zoning Practices and Procedures



Fletcher Bowron, Chairman



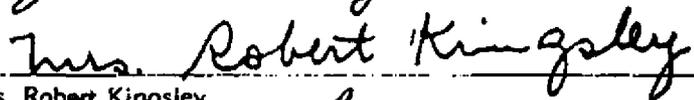
Rudolph Ostengaard, Vice Chairman



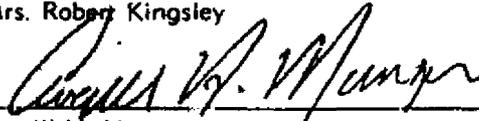
John C. Bollens



J. Robert King



Mrs. Robert Kingsley



Averill H. Munger



Gordon Whitnall

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INTRODUCTION

GENERAL CONCLUSIONS

After an in-depth study, we agree with the report of the 1966 Grand Jury that "... influence can and has been and in all probability will be exerted through the medium of campaign contributions, political obligations, and friendships," and that there are "... existing wrongs in the field of zoning administration which are subject to correction."

We conclude that the public welfare will be better served by not enumerating the many reported charges of suspicious illegal actions, but rather to recommend changes in administrative procedures, the enactment of ordinances and the submission to voters of certain Charter changes which will make favoritism in planning and zoning matters very difficult.

Elected and appointed officials having responsibilities in planning and zoning must be relieved of the great pressures exerted upon them; they must be afforded more time and opportunity for constructive planning; and rezoning should be accomplished by districts, rather than by piecemeal or spot zoning which the courts of practically every state condemn as against the public interest and, in most instances contrary to the basic legal provisions for planning and zoning.

We find that there is a widespread public belief that favoritism occurs in the granting of appeals for variances and conditional use permits. Whether or not money has been passed, directly or through intermediaries, we have reached the inescapable conclusion that

public confidence in the administration of City government in Los Angeles must be restored by prompt and major changes in planning and zoning practices. No doubt many accusations and innuendoes regarding zoning improprieties cannot be proven. But there is no doubt that great, even tremendous, wealth can be accrued from zoning actions. Thus, the opportunity and incentive to grant zoning favors—whether in the form of variances from the provisions of the zoning ordinance, issuance of conditional use permits or approval of spot zone changes—present a fertile field for corruption.

While we do not say that criminal acts have gone unpunished, the requirements of the law that one cannot be convicted on the uncorroborated testimony of accomplices makes it very difficult for the District Attorney to make a case for presentation to the County Grand Jury. Necessary corroborating evidence is almost impossible to develop. One who gives and one who receives a bribe, and any go-betweens are equally guilty; and, even if two or more persons would come forward and agree to testify against the third, the requirements of the law would not be met, because those who would be willing to turn State's evidence are accomplices. In the history of Los Angeles County, there is only one case where bribery has been established entirely by circumstantial evidence (People v. Graves, 137 C.A. 1).

The term **zoning** has lost its significance in the City of Los Angeles, for it has come to mean promiscuous changes in a zoning pattern

rather than adherence to consistent comprehensive zoning. Procedures in actual practice have become so loose that even the requirements of the City Charter have not been met in numerous variance cases. Most complaints reaching us have concerned the actions of the Board of Zoning Adjustment in reviewing decisions of the Office of Zoning Administration.

The practice in Los Angeles is not unique in this respect. In cities of almost every state, cases are reported where owners of property seek to increase the value of their property by approval of zone changes, variances or conditional use permits, in a great many instances to the detriment of other property. In many cases the approval of a change in permitted use constitutes a special privilege.

In an article entitled "Opening Pandora's Box—the Property Tax and Planning," which appeared in the March 1965 issue of Nation's Cities, Marion Gaffney, a well-known economist says:

When the Planning Commission and the Zoning Board flit about sprinkling little golden showers here, rather than there, they make millionaires of some, and social reformers of others.

In the proceedings of the 1967 annual meeting of the American Society of Planning Officials (Planning 1967), there is a pertinent article by Sheldon J. Plager, Professor of Law at the University of Wisconsin, entitled "The XYZ's of Zoning." The title suggests that, perhaps, zoning as it is now practiced in many communities has reached the end of the road. A large part of the problem stems from the way zoning is administered at the local level. Professor Plager points out that zoning is intended to implement a pre-existing plan for the community's development and growth. Obviously, the more careful and thorough the planning, the better the foundation for zoning decisions.

Planning authorities agree that individual zoning actions by the legislative body must have reference to an over-all zoning plan, and such a plan must, in turn, relate to a master plan—the newer, more descriptive term for which is **comprehensive general plan**—for the future physical development of a city.

A comprehensive general plan deals with intermediate and long-range goals and objectives. It is a frame of reference which should be used to guide the future physical development and growth of the city. The general plan should be the result of a complete and detailed analysis of the city. Its content should include not only maps showing the desirable trend in future development, but also statements of policy with respect to each element of the plan.

Zoning, on the other hand, is a tool which is used to regulate specifically the use of land and to put into effect the principles and patterns set forth in the general plan. Zoning cannot take the place of planning—it must be based upon the results of sound plans carefully developed.

Zoning is the process of authorizing, by districts, the uses to which land may be put. Uniform regulations within a zone are fundamental to proper and legal zoning. The courts have held that the essence of zoning is territorial division according to the character of land and buildings particularly suitable for particular uses, and the establishment of uniform regulations for uses within the zone. There are several outstanding authorities on the law of zoning, and their books are frequently quoted by the courts. One of these is James Metzenbaum, a distinguished member of the Cleveland Bar who represented the prevailing party in the famous case of Euclid Village v. Amber Realty Company, an Ohio case which reached the U.S. Supreme Court. The Court rendered an epic decision in 1926 (272 U.S. 365). In his latest volume, Law of Zoning, Metzenbaum says:

Zoning now means a comprehensive zoning ordinance. Zoning ordinances do not aim to prevent mere harmful uses, but, on the contrary, they are comprehensive in that they concern all uses—good, bad, and indifferent—and generally throughout the entire community.¹

A comprehensive zoning ordinance must consider all uses. But too often incompatible uses have unnecessarily been introduced into areas and gravely affect the character of a neighborhood. Such abuses are well described

¹James Metzenbaum, Law of Zoning (Barker, Voorhis & Co., Inc.: New York, 1955).

by Professor Plager in his previously mentioned article:

Another short circuit occurs when the board of appeals (or board of adjustment) starts reading its variance power as authority to waive the rules in an appealing case, and by waiving the rules they really mean waving goodbye to them. By granting a use variance the board in effect rezones property from one use classification to another, but without recognizing the policy implications of what it is doing and without the procedural safeguards that are part of the adjudication or target selection process. The board thus assumes a policy-making function which it is neither qualified for nor properly entitled to exercise. In addition to involving an improper assumption of authority and a complete confusion of function, a seldom recognized evil in the use variance is that the man who buys property in a residential zone, for example, in reliance on the zoning map where undeveloped land is involved may very well discover to his dismay that he bought next to property that is in fact business or industrial property, even though the zoning had never been changed from the pre-existing residential classification. A use variance had been granted and there was no known record except among the few who knew what was happening when it happened.²

We find that since the adoption of the comprehensive zoning ordinance for Los Angeles in 1946 the many changes in zoning effected by various means and procedures have produced a general bypassing of the intent and purpose of sound zoning, which is to provide uniform provisions within each zoning district. Over a period of twenty years, the bad, if not entirely illegal, practice of piecemeal or spot changing of zoning patterns has evolved, resulting in a hodge-podge of land uses in various districts, with encroachment into residential sections and other areas contrary to basic principles of sound city planning.

Some of the improper piecemeal changes in zoning patterns have been accomplished by incorrect employment of the procedure referred to in the City of Los Angeles as **conditional uses** and in other jurisdictions as **zoning exceptions, special exceptions, or special exception uses**. A great number of abuses have come through actions of the Board of Zoning Adjustment on appeals from decisions of the Zoning Administrator.

The Office of Zoning Administration, created by the 1941 Charter amendment and the first such office in the nation, has consistently recognized the prerequisites to the granting of variances as prescribed by Section 98 of the Charter and related ordinances. Through the years, the Office has earned a reputation as a model zoning agency with particular reference to variances.

For many years comparatively few appeals were made from decisions of the Chief Zoning Administrator and his Associates. Within recent years a different attitude apparently has been introduced by the Board of Zoning Adjustment. Particularly during the period from 1963 to the end of 1967 a substantial increase in the number of reversals occurred.

The Board of Zoning Adjustment, in actual practice, has frequently disregarded the findings of fact and reasons set forth in the decision of the Zoning Administrator. It has, in effect, acted as an agency to consider many cases de novo (anew), taking evidence not presented earlier to the Zoning Administrator. Based upon our inquiries during the calendar year 1967, we find the Board has disregarded legal requirements to observe the same limitations as are placed upon Zoning Administrators by Section 98 of the Charter. The end result of such action in terms of what develops on the land creates a condition contrary to the intent of the City Council as expressed in the Zoning Code.

COMPLAINTS RECEIVED BY THE COMMITTEE

We have received complaints of and our investigations show evidence that the Board of Zoning Adjustment disregarded the record of evidence received at hearings before the Zoning Administrator as well as his findings. Complainants stated that in the final determination the identities of the appellant and the expediter (the appellant's professional representative) were apparently more important than were the facts of the case. We heard charges that (1) determinations were made by conference in advance of hearings before the Board; (2) some hearings were a mere sham; (3) the Board heard evidence not presented at

²Sheldon J. Plager, "The XYZ's of Zoning," *Planning 1967* (American Society of Planning Officials: 1967).

the hearing before the Zoning Administrator; and (4) the Board often did not receive adequate, if any, evidence on which to base findings of fact as required by the Charter to support the granting of a variance or to reverse the determination of the Zoning Administrator. Frequently, it was alleged, statements of expediter were accepted without supporting evidence.

It was further charged that the Board, in various ways, acted arbitrarily and capriciously, and the effect of its decisions was to grant favors to individuals, firms or corporations. It was also pointed out that, in frequent cases, citizens who appeared to protest the granting of variances were not afforded equal opportunity to present facts, and were treated with disrespect by the then presiding officer of the Board, who, almost without exception, exercised arbitrary control over the conduct of the hearings.

We are particularly concerned that actions of the Board of Zoning Adjustment have provided an alternative to legislative action by the City Council, thus allowing an applicant to select his forum. There are too many instances in which an application for rezoning has been denied by the Planning Commission and by the City Council on appeal, followed by a request to a Zoning Administrator for a variance, which was denied but subsequently reversed by the Board of Zoning Adjustment and the use granted. The net effect is a rezoning which constitutes a misappropriation of the legislative power which legally is possessed only by the Mayor and Council. The Committee concludes that there should be only one correct route to follow for each type of zoning action. There are at present two such routes, either legislative or quasi-judicial. The quasi-judicial route (variance) should never be used to produce an end result that should properly only be accomplished by a legislative change. A variance should not (and cannot legally) be a substitute for a legislative zone change.

We also received complaints concerning the actions of the City Council, particularly with reference to conditional use matters. The complainants maintained that in some cases the action of the Council was taken in disre-

gard of the facts and recommendations presented. The Committee points out that the Council, in reserving to itself the right of administrative review, is clearly obligated to exercise this power without favoritism and within the guidelines of its adopted regulations as set forth in the zoning ordinance. The recommendations of this Committee will relieve the Council of this criticism.

SOME BASIC PRINCIPLES UNDERLYING THE RECOMMENDATIONS IN THIS REPORT

The purpose and justification for the planning function in government, including zoning, are to develop plans, programs and standards that will permit utilization of lands to achieve the greatest potential benefits for the community as a whole. Through this planning process, an environment conducive to the highest level of living, commerce and industry can be produced. In the final analysis, the extent to which these objectives are attained or lost must be the measurement by which the success or failure of employing the planning function must be judged.

Basically, there are three principal means for the operation of municipal government in the regulatory field. They are (1) the legislative process for prescribing regulations and fixing policy, (2) the administrative process for applying the policies and (3) the quasi-judicial process for reviewing and adjusting matters equitably under the policies.

Specifically, in the City of Los Angeles, in the field of zoning, there are basic questions that need answers. Providing these answers represents one of our major assignments.

The first question is whether the basic land use pattern, represented initially by a comprehensive zoning map, reflects the intended land use based on the functional pattern of the City as defined by the comprehensive General Plan, economics and social interests of the people.

The City Planning Department is currently engaged in revising elements of the General Plan which are out of date and in developing new elements of the Plan which have heretofore been missing. Land use plans

have been progressively adopted for some areas of the City, and plans are in process for other areas. Completion of the General Plan should be a matter of high priority for the Department if the City is to have the necessary guide for better zoning.

The second question is whether zoning actions, either for zone changes, conditional uses or variances, stabilize the comprehensive land use pattern. Or do they represent an abandonment of the principles of comprehensiveness and substitute therefor isolated grants of special privilege, the effect of which is to destroy public confidence in the reliability of zoning and severely reduce any real value that zoning may have?

Another question is whether basic policies of land use control have been defined, including matters of procedure, and, if so, whether the administration of zoning has adhered to such policies. If adequately defined policies appear not to exist, how can they be established? In the event that adequate policies have been established, has the administrative process strengthened the policies or undermined them?

Whatever may be done with reference to amending the Charter and ordinances or through administrative action as a result of this report, every effort should be made to clearly distinguish between the areas of legislation, administrative direction and quasi-judicial review.

It must be recognized that the many criticisms which have been brought to our attention do not apply to all elected and appointed officials. To a large extent, it is the system which is at fault rather than the people involved. In particular, we find that over the years the Planning Department's career staff has performed its duties with competence, dedication and persistence. The staff has met the unprecedented rapid growth of this City with a consistently high quality of research, analysis, plan preparation and planning administration—the essential foundations for sound city planning efforts.

The City of Los Angeles pioneered in the regulation of land use. Through the years there have been many significant court cases resulting in decisions of the Supreme Court of Cali-

fornia and of the United States Supreme Court that have upheld imaginative zoning procedures originating in Los Angeles. But this community in recent years has fallen behind in practical and farsighted municipal control of land uses. Los Angeles is now the third largest city in the country and the center of the second largest metropolitan area, with constantly growing potentialities. It should be second to none in planning and zoning policies and procedures.

After fourteen months of exhaustive hearings, meetings, research and analysis of resulting information, we are making thirty-six recommendations for the improvement of planning and zoning in Los Angeles. They are set forth in the Summary of Recommendations grouped according to chapter headings. The recommendations are repeated together with supporting explanation and discussion in the chapters which constitute the body of this report.

Chapter 1 is concerned with the basic laws and policies for planning and zoning and the processes by which the City Council, Mayor and the City Planning Commission establish and maintain these laws and policies—particularly the General Plan and the Zoning Code.

Chapter 2 relates to the need to clearly identify the legislative, administrative and quasi-judicial functions of government in zoning matters and makes recommendations for strengthening the administrative and quasi-judicial zoning processes. A new concept of, and procedure for, conditional use permits is recommended.

Chapter 3 deals in detail with the procedures for acting upon zoning requests and appeals to insure that the principles of law and democratic processes are observed.

The recommendations of Chapter 4 are designed to insure that each of the elected officials and appointed citizen boards—Mayor, Council, Planning Commission and Board of Zoning Appeals—assumes its intended role in representing the citizenry so that the distinct but interrelated actions of each will achieve the best possible interpretation of the public interest.

In Chapter 5 we seek to strengthen the protections against private influences entering into public decision-making except through open democratic process.

Chapter 6 summarizes the Committee's recommendations related to the 1966 County Grand Jury's recommendations.

Finally, Chapter 7 presents a suggested schedule of actions for effecting our recommendations.

Appendixes provide the reader with additional information concerning the Committee's investigations.

SUMMARY OF RECOMMENDATIONS

A SOUND LEGISLATIVE AND POLICY BASE FOR PLANNING AND ZONING

(A summary of the recommendations contained in Chapter 1)

GENERAL PLAN

CHARTER AND CODE AMENDMENTS

Recommendation 1: Amend the Charter to set forth the purpose, comprehensive nature and essential procedural requirements for the development and adoption of the General Plan of the City. Supplement this by a section of the Municipal Code defining the required content and form of the General Plan and prescribing the specific procedure for its adoption and amendment.

PROCEDURE

Recommendation 2: Provide by ordinance for adoption and amendment of the General Plan according to the following pattern:

1. Study initiated by the Director of Planning, City Planning Commission or City Council.
2. Preparation of General Plan proposals by the Director of Planning with the advice of the General Plan Advisory Board and the City Planning Commission.
3. Public notice and hearing on the Director's recommendations to be conducted by the City Planning Commission or a Hearing Examiner.

4. Recommendations by the City Planning Commission. Any changes from the recommendations of the Director shall be referred to the Director for report prior to action by the Commission.
5. Transmittal of the City Planning Commission's recommendations to the City Council with a copy to the Mayor. The Mayor may send comments or recommendations to the Council within thirty days.
6. Public notice and hearing by the City Council (or the Planning Committee of the Council) not less than thirty days after receipt of the Commission's recommendations.
7. Prior to Council adoption, any proposed changes from the Commission's recommendations must be referred back to the Director of Planning for report through the Commission with copy to the Mayor. Such report must be received within forty days or such longer period as the Council may designate.
8. Final action by the City Council within thirty days after conclusion of its public hearing if no changes are

made, or within thirty days after receipt of the Commission's report if changes are being considered. Adoption of the General Plan or any part shall be by majority vote if in accord with the recommendations of both the Commission and the Mayor. A two-thirds vote shall be required to deviate from the recommendations of the Commission or Mayor after resubmission.

9. Publication of General Plan as adopted.

AREA-BY-AREA CONSIDERATION

Recommendation 3: Provide for the adoption or amendment of the General Plan on a scheduled area-by-area basis, each area covering less than the entire City, but must involve comprehensive consideration of a logical planning area. The General Plan should be reviewed on this regularly scheduled area-by-area basis, such schedule and areas to be established by the City Council upon recommendation of the Director of Planning and the City Planning Commission.

ZONING

GENERAL PLAN RELATIONSHIP

Recommendation 4: Amend the City Charter to require that in adopting or amending any zoning regulations or zoning maps, the City

Planning Commission and City Council shall make specific findings showing that the action is in substantial conformance with the purposes and intent of the General Plan. If the City Council does not adopt the Commission's findings, the Council shall adopt specific findings showing that its action is in conformance with the General Plan.

ZONING CODE REVISION

Recommendation 5: A complete revision of the Zoning Code should be promptly initiated. However, since two years or more will be required for this revision, certain changes as recommended in this report should be enacted as soon as possible, pending the completion of the over-all revision.

ZONING MAP—REVISIONS BY AREA

Recommendation 6: Establish a procedure for review and revision of the Zoning Map of the City on a regularly scheduled area-by-area basis, such schedule and areas to be established by the City Council upon recommendation of the Director of Planning and the City Planning Commission. Provide in the Charter and Zoning Code, that, unless there are exceptional circumstances affecting the public interest, requests for zone changes should be processed for a given area only during the regularly scheduled review of the area in which the property lies.

UNRAVELING THE LEGISLATIVE, ADMINISTRATIVE AND QUASI-JUDICIAL FUNCTIONS

(A summary of the recommendations contained in Chapter 2)

ADMINISTRATIVE FUNCTIONS

CONDITIONAL USE PERMITS

Recommendation 7: Amend the Zoning Code to establish uniform regulations and criteria for specific uses named in the Code as being subject to review and approval with conditions. The consideration and approval of such

conditional uses should be an administrative matter under the jurisdiction of the office of Zoning Administration with appeal to the Board of Zoning Appeals and any further appeal to the courts. (The Committee intends to submit more detailed recommendations and proposed legislation concerning conditional use permits in a subsequent report.)

SUMMARY OF RECOMMENDATIONS

UNCLASSIFIABLE USES

Recommendation 8: Amend the Zoning Code to provide for individual legislative consideration and approval of those few land uses which because of their unusual nature cannot be listed as permitted—either automatically or as conditional uses—in particular zones. Provide in the Code the criteria for the approval of such uses and require that specific written findings showing how the criteria are met must be adopted before approving any such use. Approval of such uses should be by ordinance, with specific conditions or requirements, after recommendation by the Planning Commission in the same manner as for zone changes. The unclassifiable category should be limited to uses such as airports, cemeteries, higher educational institutions, land reclamation projects and natural resource developments.

PLANNED DEVELOPMENTS

Recommendation 9: Planned developments should be treated under the type of conditional use provisions recommended in this report, and not as unclassifiable or supplemental uses.

"Q"-QUALIFIED ZONE

Recommendation 10: The Committee strongly opposes the "Q"-qualified zone concept. The desired objective should be met through conditional use provisions as recommended in this report and through revision of the list of uses permitted in the various zoning classifications. If action is deemed necessary before revision of the Code as set forth in Recommendation 5, the procedure suggested should be followed.

ZONING ENFORCEMENT

Recommendation 11: Provide adequate staff in the Building and Safety Department for regular inspections and follow-up on compli-

ance with zoning regulations, particularly the special requirements of conditional use and variance approvals. The City Planning Department should assist in enforcement by checking compliance with zoning requirements during area planning surveys and referring violations to the Building and Safety Department.

QUASI-JUDICIAL FUNCTIONS

VARIANCES

Recommendation 12: Clarify and strengthen the Charter limitations on the granting of variances as follows:

1. Set forth the quasi-judicial nature of variance determinations and prohibit use of the variance to accomplish purposes which should properly be accomplished through legislation.
2. State the over-all intent and purpose of the variance provisions as a means of insuring equal application of zoning regulations to property in similar situations but prohibiting the use of the variance to grant special privileges.
3. Clarify and add to the requirements for the finding which must be made in order to grant a variance. Retain the basic principles contained in the present four requirements, but make them more specific. These tests for granting of a variance should be capable of realistic but strict application.
4. Provide that, in granting a variance, self-imposed hardships are not a proper consideration.
5. Include more specific limitations on the circumstances under which variances from permitted land uses are justifiable.

OFFICE OF ZONING ADMINISTRATION

Recommendation 13: Retain the present powers, relationship and civil service status of the positions of Chief Zoning Administrator and Associate Zoning Administrators.

Recommendation 14: Amend the City Charter to clearly define the authority of a Zoning Administrator as quasi-judicial, making it clear that no actions shall be taken which usurp legislative authority.

BOARD OF ZONING APPEALS

Recommendation 15: Amend the Charter to change the title of the Board of Zoning Adjustment to its original designation as the Board of Zoning Appeals and to limit the jurisdiction of the Board to appeals from determinations of Zoning Administrators. The Board should not have jurisdiction over matters outside the proper scope of its appellate function.

INSURING FAIR, UNDERSTANDABLE AND EFFECTIVE PROCEDURES

(A summary of the recommendations contained in Chapter 3)

PROCEDURES

UNIFORM REQUIREMENTS

Recommendation 16: Amend the Municipal Code to provide simple and uniform procedural requirements governing applications, notices, hearings, time limits and appeals for all types of planning and zoning cases. Also provide that each agency having jurisdiction in such matters must formally adopt and publish any rules of procedure which are used.

PUBLIC NOTIFICATION

Recommendation 17: Provide timely and effective notification to all interested parties concerning hearings on planning and zoning cases through improvements in the record keeping and data processing procedures of the departments involved.

Recommendation 18: Establish a subscription service to provide notification to any interested individuals and organizations not otherwise notified.

CONDUCT OF HEARINGS

Recommendation 19: Require that all testimony and other statements of fact be given under oath at all hearings held by or on behalf of the City Planning Commission, Office of Zoning Administration and Board of Zoning Appeals.

Recommendation 20: Make a verbatim record of the testimony at each hearing and retain such records for three years.

FINDINGS IN ZONING CASES

Recommendation 21: Amend the Charter and the Zoning Code to clearly require that specific written findings of fact based upon competent evidence of record, and showing conformance or nonconformance to the required criteria, must be adopted in acting upon all zoning matters other than slight modifications as defined in the Charter and the Zoning Code.

APPEALS

Recommendation 22: Amend the Zoning Code to standardize appeal procedures for all types of planning and zoning cases, and include the following provisions:

1. Allow a twenty-day period following the original determination for the filing of appeals.
2. Provide that those eligible to file an appeal include an applicant, any person aggrieved, the Director of Planning and the Planning Commission.
3. The written appeal must show specifically wherein the original findings

SUMMARY OF RECOMMENDATIONS

and determination are not supported by the facts.

4. Appeals to the Board of Zoning Appeals, involving as they do interpretations of the provisions of the Charter and ordinances, are to be considered only upon the record of the original hearing and determination. No new evidence may be introduced. If new evidence is offered the case shall be returned to the agency having original jurisdiction for rehearing and redetermination.
5. Any modification or reversal on appeal must include written reasons detailing wherein the original determination is not supported by the findings of fact, and must set forth specific revised findings.
6. Failure of the appellate body to act within fifty days after filing of an appeal (or longer period when an extension of time is authorized) shall constitute denial of the appeal.

TRANSFERS OF JURISDICTION

Recommendation 23: Amend the Zoning Code to standardize the procedure for transfer of jurisdiction to an appellate body when the original body fails to act, and include the following provisions:

1. Failure of the original authority to act within the fifty-day time limit (or longer period when an extension of time is authorized) constitutes neither approval nor denial but permits transfer upon written request of the applicant. The appellate body then assumes all responsibilities and duties imposed upon the original authority, and must act within fifty days of transfer of jurisdiction (or longer period when extended by mutual consent).
2. Upon transfer of jurisdiction, public notification shall be made and a hearing held in the same manner as required for an original hearing.

RESOLVING THE PUBLIC INTEREST — A DEFINITION OF ROLES

(A summary of the recommendations contained in Chapter 4)

CITY PLANNING COMMISSION AND BOARD OF ZONING APPEALS

APPOINTMENTS

Recommendation 24: In making and confirming appointments to the City Planning Commission and the Board of Zoning Appeals, the Mayor and the City Council must assume full and equal responsibility for insuring that persons of the highest integrity, competence and interest in civic and public affairs are selected.

ORIENTATION

Recommendation 25: Furnish new appointees with a written manual covering the nature of the planning and zoning functions, the role of the Planning Commission and Board of Zoning Appeals, and the legal, policy and ethical limitations within which they must operate. (The Committee will make more specific recommendations on this in a subsequent report.)

POLICY REVIEWS

Recommendation 26: The Director of Planning should arrange periodic meetings with members of the Planning Commission, the Board of Zoning Appeals, the City Attorney, Zoning Administrators and key staff members to review over-all operations, consider basic policies, examine the relationship of zoning actions to such policies and reevaluate established procedures and policies in the light of advancements elsewhere.

TERMS OF OFFICE

Recommendation 27: Amend the Charter to strengthen the system of overlapping terms of service on the City Planning Commission and the Board of Zoning Appeals as intended by the City Charter. This should be accomplished by providing that:

1. Appointments can only be made when an office becomes vacant.
2. Vacancy in an office occurs only upon:
 - a. Expiration of the term.
 - b. Removal accomplished by either:
 - 1) Request of the Mayor approved by simple majority vote of the Council.
 - 2) On initiative of the Council by a two-thirds vote. If disapproved by the Mayor, a four-fifths vote required to sustain removal.

c. By a commissioner or board member filing a resignation with the City Clerk.

3. Appointments will be deemed approved if not acted upon by the Council within sixty days.
4. In the event the Mayor does not make an appointment within sixty days after a vacancy in an office occurs, the President of the City Council shall make the appointment, subject to confirmation by the Council as in the case of appointment by the Mayor.

COUNCIL ACTION

Recommendation 28: Provide by Charter or ordinance that, for planning and zoning matters where time limits are not otherwise provided, each such matter must appear on the Council agenda each ninety days from the date of transmittal to the Council, until Council action is completed.

MAYOR'S VETO

Recommendation 29: Identify in the Charter and Code those matters that are legislative in character (as distinguished from administrative and quasi-judicial matters) and therefore to be adopted by ordinance with the right of veto by the Mayor.

PROTECTING THE PUBLIC INTEREST

(A summary of the recommendations contained in Chapter 5)

PUBLIC INFORMATION

Recommendation 30: Strengthen the City's program of keeping the general public adequately informed as to the purposes, requirements and procedures of sound planning and zoning and as to the activities and decisions of City government in planning and zoning matters. This program should include the following:

1. Make available to the public simple and clear explanations of adopted objectives, policies, plans, regulations and procedures.
2. Place capable personnel in public contact positions and provide adequate training for such personnel.
3. Provide adequate records and staff at each branch office of the City Planning Department.

SUMMARY OF RECOMMENDATIONS

4. Prepare a statement to be available for use at public hearings and meetings which explains clearly and simply the procedures which will be followed in the matters to be considered.

CODE OF ETHICS

Recommendation 31: The Committee recommends that the City Council adopt a code of ethics for City officials and employees involved in planning and zoning matters. Prior to such action the Council should undertake further study of this broad area including consideration of recent constructive developments elsewhere.

CONFLICTS OF INTEREST

Recommendation 32: Require by ordinance and amplification of the Charter that prior to consideration of any planning or zoning matter, each member of the City Planning Commission or Board of Zoning Appeals who has a private or personal interest in the matter must so state. If at any time during the consideration of a matter it becomes evident to a member that a conflict exists, he shall at that time so indicate. (The Committee will submit additional recommendations concerning conflict of interest in a subsequent report.)

PRIVATE COMMUNICATIONS

Recommendation 33: Enact an ordinance requiring that communications between interested parties and members of the City Planning Commission or Board of Zoning Appeals concerning any matter pending before the Commission or Board shall be limited to oral statements in open public meeting and written statements addressed to the Commis-

sion or Board as a whole. Engaging in private oral or written communications concerning such matters shall constitute a misdemeanor by all of the parties involved and misconduct in office by City officials.

FIELD INSPECTIONS — BOARD OF ZONING APPEALS

Recommendation 34: With respect to the Board of Zoning Appeals, field inspections by its members should be made only as an adjourned meeting of the Board and in the company of representatives of both sides of the issue. Findings of fact based upon inspections must be on the basis of such inspections by the Board as a whole.

CAMPAIGN CONTRIBUTIONS

Recommendation 35: Amend the Charter and enact municipal legislation to supplement State law concerning campaign contributions, including consideration of gifts and gratuities, which may affect planning and zoning, with a view to requiring itemized reports from all elected officials and candidates for elective office listing donors and amounts from each donor. Such reporting should include indirect contributions handled through campaign committees campaign management firms or other individuals or organizations. (Further details on this subject are to be developed in a subsequent Committee report.)

GRAND JURIES

Recommendation 36: The Committee recommends that the Mayor and Council request the State legislature to expand the powers of grand juries to permit investigation of municipal planning and zoning matters on their own initiative.

CHAPTER 1

A SOUND LEGISLATIVE AND POLICY BASE FOR PLANNING AND ZONING

GENERAL OBJECTIVES

- To establish and maintain adequate legal authority for planning.
- To establish and maintain an adequate legislative and policy basis for land use control.

During the present century, zoning has become the primary legal means for regulating the use of land in the United States. Its purposes are to control the pattern of land utilization in a community so as to promote the best possible over-all community environment, to prevent unnecessary conflicts between land uses and to provide for a generally efficient functioning of the community. Zoning is accomplished at the municipal level under the principle of law known as the police power—the right of the body politic to regulate its members for the general welfare of all. To be enforceable, zoning must be stated in specific terms of permitted uses within defined areas (or zones). It is not practical for the zoning law itself to explain in detail the reasons for the regulations.

Many private and public activities other than zoning influence the land use pattern of the community. These include various forms of regulation, the provision of public utilities and services, the operation of the real estate market, the effects of taxation and general social and cultural attitudes. To be effective, city planning must recognize and be concerned with all of these forces affecting urban develop-

ment. In fact, city planning may be defined as the effort to coordinate these various influences, including zoning, and direct them toward a common public goal. This need for a sense of unity of purpose is vital to meaningful planning.

As a means of setting forth the basic objectives of a community for its physical development, including its land use pattern, an instrument called the comprehensive general plan² is utilized. The general plan is the basis for effective city planning. As a coordinating, direction-setting document, a general plan is a policy statement in written and map form, not a set of precise rules, and therefore is not itself suitable for enactment as law. It is intended as a basis for specific local laws such as zoning. As Charles Haar, a former professor

²The term master plan has been commonly used in Los Angeles and elsewhere but the growing practice throughout the United States and now recognized in California law is to use the term general plan. A general plan should always be comprehensive in the sense that all relevant factors and territory are considered in preparing and presenting the plan. The term general plan will be used in this report except where specific reference is made to existing documents which use the term master plan.

at Harvard Law School, has described it,⁴ a general plan should be "an impermanent constitution" under which implementing regulations are enacted. Thus, the general plan is the primary statement of the purposes, principles and objectives which zoning and other regulations are designed to accomplish. Clearly, sound zoning must be based on a comprehensive general plan or some equivalent policy base.

The legal basis for the general plan and for zoning, and their proper interrelationship, must be provided through enabling legislation. The City Charter is the basic enabling law for Los Angeles while the California Planning and Zoning Law is controlling law for non-chartered cities. We find that the present Charter provisions are vague and limited in laying the legal foundation for planning and zoning in Los Angeles. Although there are also deficiencies in the State law, it has been more frequently and consistently updated through the efforts of the planning and legal professions, and we believe it provides at least a guide for consideration.

Thus we are concerned in this chapter with (1) recommendations for adequate and sound provisions in the City Charter governing both the general planning and zoning processes, (2) the effectiveness of the General Plan as the City's guiding policy for the development of the City and (3) the implementation of City policy through the regulations of the Zoning Code. It is obvious that the basic legislation of the City needs to be improved to define properly the respective roles and interrelationship of the General Plan and the Zoning Code (see Figure 1).

⁴Charles M. Hoar, "The Master Plan: An Impermanent Constitution," *Law and Contemporary Problems*, Vol. 20, No. 3 (Summer 1955), 353-418. See also Hoar's comments in the article "In Accordance With A Comprehensive Plan," *Harvard Law Review*, Vol. 68, No. 7 May, 1955), 1154-1175.

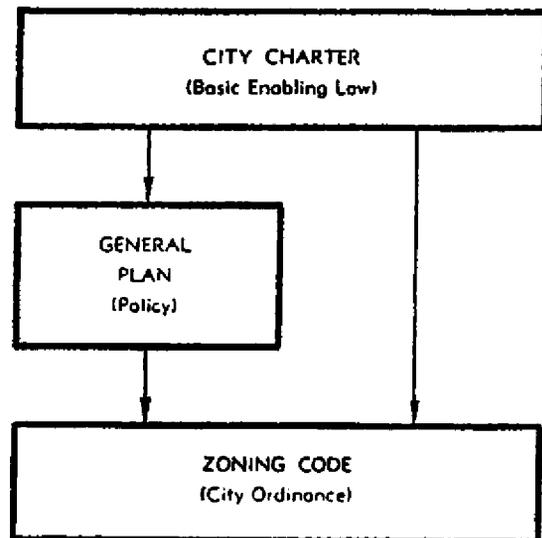


Figure 1. Relationships Among City Charter, General Plan and Zoning Code

GENERAL PLAN

CHARTER AND CODE AMENDMENTS

The General Plan should be recognized as an important City document providing the basic policy guide for City development activities.

Recommendation 1: Amend the Charter to set forth the purpose, comprehensive nature and essential procedural requirements for the development and adoption of the General Plan of the City. Supplement this by a section of the Municipal Code defining the required content and form of the General Plan and prescribing the specific procedure for its adoption and amendment.

Among the points to be included in such changes are:

1. Use of the term **general plan** in place of **master plan**. This change would conform with State law and the growing trend throughout the United States.
2. Statement of purpose along the lines of coordinating the physical development of the City to contribute to the

public health, safety and general welfare and to serve the economic, social and individual needs of the population. Adherence to this purpose then would justify police power regulation by zoning and other laws to implement the General Plan.

3. Definition of intended scope. The required comprehensive nature of the General Plan should be clearly set forth so that: (a) the land use element and all other major functional elements are encompassed; (b) the complete range of public objectives is recognized; (c) all possible time spans into the future for which plans can reasonably be made are covered (probably with varying degrees of generality); and (d) all of these aspects are coordinated over the entire territory of the City (although the Plan may be adopted in logical area units from time to time).

We find three general areas of confusion relating to the preparation and use of the General Plan in Los Angeles: confusion about its purpose and importance; confusion about its content; and confusion about procedures for its adoption (discussed under Recommendation 2). As to confusion about the purpose and importance of the General Plan, there is evidence that the confusion exists among City employees, commissioners and legislators, as well as in the minds of the general public. The statement "the General Plan is only a guide" is often heard, and may be literally true, but the implication is that the General Plan can be ignored when it is convenient to do so. The General Plan should be given full consideration in all planning and zoning actions. To ignore it is to waste the resources used in the preparation of the Plan.

This confusion may result from changing concepts over the years, due in part to the lack of any clear statement of purpose in the Charter. In the past, some people may have considered a General Plan to be merely a working tool of the Planning Commission and not something of direct concern outside of the deliberations of that body. That this view is no longer valid is confirmed by the City Ad-

ministrative Officer in his June 1965 Management Audit Report of the City Planning Department:

... It is the City's master plan and not the property of any one department. General City interest and participation is necessary if the plan is to be complete and practicable.⁶

The concept of the General Plan as a policy statement of the City government is supported by the opinion of the City Attorney⁶ that under the present Charter the Master Plan is official only when adopted by the City Council. And the recent revitalization of the Master Plan Advisory Board (consisting of City department heads and other key officials) demonstrates the growing recognition of this principle. Yet no statement of the basic purpose of the Master or General Plan appears in the City Charter, leaving the door open to disagreement and misunderstanding concerning its proper role.

A second area of confusion concerns the content of the General Plan. The present Master Plan document consists of a great variety of maps, reports, elements and area plans prepared and presented in various ways and with varying degrees of formal endorsement. Legally (that is, as adopted by the City Council) the present Master Plan consists essentially of area land use plans covering approximately two-thirds of the City and of City-wide public facilities plans for highways and freeways, libraries, fire stations and three civic centers. By way of contrast, the State law requires a general plan to consist of a statement of development policies: it must include land use, circulation, population and housing elements and may include any number of additional elements such as conservation, recreation, transportation, transit, public services, public buildings and safety.⁷

We find that a General Plan has not been suitably prepared to serve as a basis or guide

⁶C. Erwin Piper, City Administrative Officer, Management Audit Report of City Planning Department, June, 1965, p. 14.

⁶Roger Arnebergh, City Attorney, "Opinion re Master Plan City of Los Angeles; Law Governing and Procedure to be Followed in Adoption or Amendment Thereof; Notice and Hearing in Connection Therewith," April 16, 1966.

⁷California Government Code, Sections 65302-65303.

for zoning. In some parts of the City, the land use element of the Plan is nothing more than a generalization of the previously adopted zoning pattern as it existed in the late 1940's. In other parts of the City, the adopted land use element of the Plan consists of precise zoning maps serving as a guide for piecemeal zoning changes. In still others areas of the City, progress has been made in recent years in adopting plans, for communities or larger areas, which more nearly approach the proper concept of a general plan as an over-all policy guide designed to serve as a basis for implementation by zoning and other official actions, rather than being merely a reflection of previous zoning decisions.

The present City Charter is of little help in defining what the content of the General Plan should be. It refers to the State law definition of the term **master plan**, now more commonly called the **general plan**.⁸ The City Attorney, however, has indicated that this definition does not apply except as all or part of the State law definition might be accepted by the City Planning Commission.⁹ In an action on August 14, 1967, the City Planning Commission determined that the Master Plan shall include circulation and transportation elements as defined in the State law. The **Master Plan Advisory Board**, which should be renamed the **General Plan Advisory Board**, has considered a list of the elements which might be included in the General Plan, but apparently no complete outline of the desired content of the General Plan has yet been officially adopted.

The main purpose of defining the General Plan content should be to insure comprehensiveness. We find that there are at least four dimensions of comprehensiveness which should be recognized:

1. **Geographic**—The entire area of the City should be covered. However, because of the large size and peculiar boundaries of the City, it is not always practical to consider the entire City as a single planning unit. Therefore the City should be divided into smaller units for planning purposes—but any such

unit should be an area of substantial size, with social and economic identity. An area-by-area planning procedure is suggested in a succeeding section of this chapter. It should always be recognized, however, that all city planning activities must be carried on within a regional planning context.

2. **Subject Matter**—If effective coordination is to be achieved, all physical elements of the City must be recognized and included.

3. **Objectives**—All public goals including those for social and economic achievement as well as for the improvement of the physical environment must be considered and inter-related.

4. **Time**—A useful general plan cannot be just a picture of what is to be achieved at a date in the future such as twenty years; it must also indicate the intermediate steps or sequence of changes as they are proposed to occur over the period of time extending from the present into the foreseeable future.

The City Planning Department has been making progress over the past several years in moving toward a truly comprehensive general plan. However, its work has been hampered by a lack of common understanding as to the content of a general plan. Pending amendment of the City Charter this problem could be solved by a suitable definition adopted by the City Planning Commission.

To the extent possible and found desirable, the Charter and Code provisions concerning the General Plan should be similar to those contained in the State Planning and Zoning Law, Sections 65300 to 65402 of the California Government Code.

To implement Recommendation 1, the Charter preferably should have a separate section on the General Plan. Its provisions should not be too detailed and should establish minimum procedural requirements only. However, it should be sufficiently clear to make the Plan a guide or standard which must be recognized as a basic consideration in all legislative, administrative and quasi-judicial acts relating to planning, zoning and other city development matters. In addition, a General Plan Code should be provided as part of the Municipal Code, setting forth more detailed requirements on form, content and procedure.

⁸Los Angeles City Charter, Section 95(a), and California Government Code, Sections 65302-65303.

⁹City Attorney, "Opinion," op. cit.

PROCEDURE

Pursuant to the Charter amendment under Recommendation 1, more detailed procedure should be provided for as follows:

Recommendation 2: Provide by ordinance for adoption and amendment of the General Plan according to the following pattern:

1. Study initiated by the Director of Planning, City Planning Commission or City Council.
2. Preparation of General Plan proposals by the Director of Planning with the advice of the General Plan Advisory Board and the City Planning Commission.
3. Public notice and hearing on the Director's recommendations to be conducted by the City Planning Commission or a Hearing Examiner at a certain time and place.
4. Recommendations by the City Planning Commission. Any changes from the recommendations of the Director shall be referred to the Director for report prior to action by the Commission.
5. Transmittal of the City Planning Commission's recommendations to the City Council with a copy to the Mayor. The Mayor may send comments or recommendations to the Council within thirty days.
6. Public notice and hearing by the City Council (or the Planning Committee of the Council) not less than thirty days after receipt of the Commission's recommendations.
7. Prior to Council adoption, any proposed changes from the Commission's recommendations must be referred back to the Director of Planning for report through the Commission with copy to the Mayor. Such report must be received within forty days or such longer period as the Council may designate.

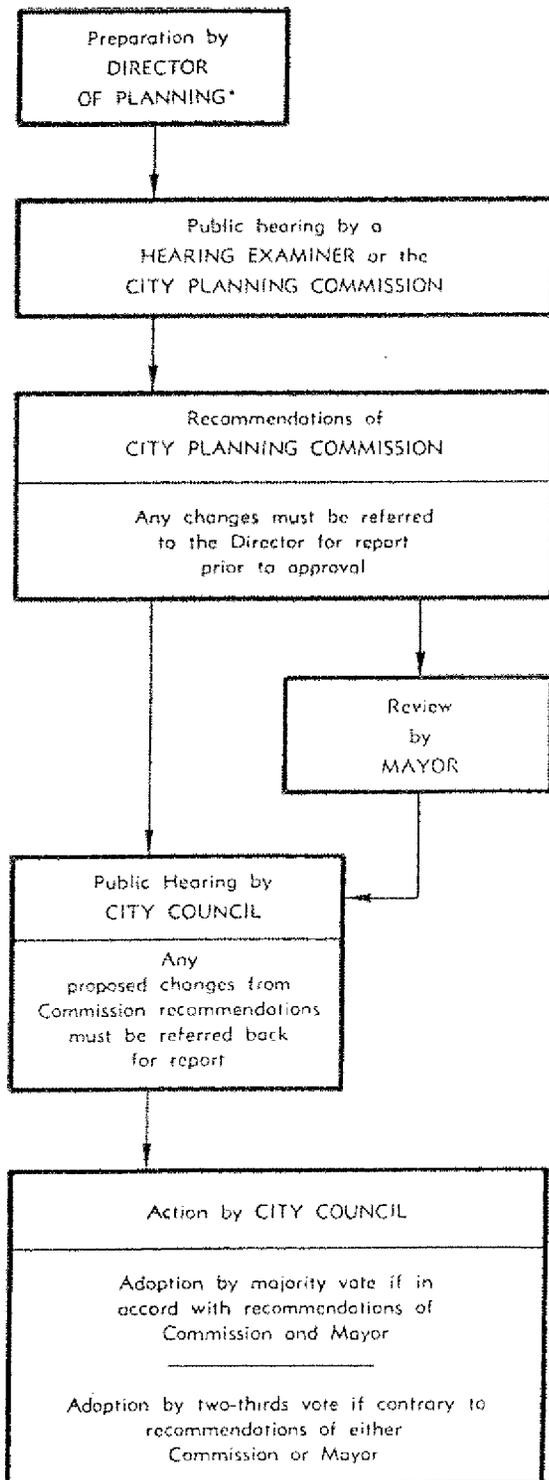
8. Final action by the City Council within thirty days after conclusion of its public hearing if no changes are made, or within thirty days after receipt of the Commission's report if changes are being considered. Adoption of the General Plan or any part shall be by majority vote if in accord with the recommendations of both the Commission and the Mayor. A two-thirds vote shall be required to deviate from the recommendations of the Commission or Mayor after resubmission.

9. Publication of General Plan as adopted.

The above recommendation is designed to improve procedures for adoption and amendment of the General Plan—the third area of confusion with reference to the General Plan. The proposed procedure is illustrated in Figure 2. The Charter is sketchy on this subject and there has never been a supplementing ordinance.

Under present provisions, the Director of Planning prepares the Master Plan with the advice of both the Master Plan Advisory Board and the City Planning Commission. Provision is made for adoption by the City Planning Commission followed by transmittal to the City Council. There is no requirement for public notification or hearing, and the responsibility of the City Council to take final action is not clear. No provision is made for participation by the Mayor other than as a member of the Master Plan Advisory Board.

Because the General Plan is an important public policy statement, it needs to be considered and adopted by resolution of the City Council after public hearing. A definite procedure should be established to notify the public of such public hearing. All responsible public officials should provide the leadership and resources to make the Plan effective, and the responsibilities of the Mayor and Council for the General Plan should not be left in doubt.



*With advice of the Master Plan Advisory Board and the City Planning Commission.

Figure 2. Recommended General Plan Procedure

AREA-BY-AREA CONSIDERATION

Recommendation 3: Provide for the adoption or amendment of the General Plan on a scheduled area-by-area basis, each area covering less than the entire City, but must involve comprehensive consideration of a logical planning area. The General Plan should be reviewed on this regularly scheduled area-by-area basis, such schedule and areas to be established by the City Council upon recommendation of the Director of Planning and the City Planning Commission.

For a city the size of Los Angeles, planning must be carried on at several levels of geographic coverage. At the broadest level, the entire City must be seen as a whole, but in many respects this can only be done by participating in regional planning for the larger urban area of which the City is a part. Such regional planning should provide a general framework within which somewhat more detailed planning can be done for smaller areas which form logical and workable local planning units.

For some purposes, subregional areas such as the entire San Fernando Valley constitute logical planning units, but for many purposes it is necessary to deal with community-size units such as Hollywood, San Pedro, Pacific Palisades and the central business district.

Effective planning must be a continuing process. A general plan which no longer reflects the aims of the people, the realities of existing situations or the latest reliable social, economic and technological forecasts is a useless plan. In view of the size and diversity of the City of Los Angeles, it is apparent that much of the material which should constitute the City's General Plan can only be adequately maintained through a continuing area-by-area process of study and revision.

A completely piecemeal approach to General Plan amendments would defeat the principle of comprehensiveness and destroy the integrity of the Plan. To prevent this, any change in the Plan should be viewed in at least a community-wide context. Therefore, in the above recommendation we propose that recognized community areas with social and economic identity be the minimum size units for general plan study and revision.

ZONING

GENERAL PLAN RELATIONSHIP

It should be made clear that implementation of the General Plan is a required component of acceptable zoning practice.

Recommendation 4: Amend the City Charter to require that in adopting or amending any zoning regulations or zoning maps, the City Planning Commission and City Council shall make specific findings showing that the action is in substantial conformance with the purposes and intent of the General Plan. If the City Council does not adopt the Commission's findings, the Council shall adopt specific findings showing that its action is in conformance with the General Plan.

All too frequently zoning regulations have been established without the prior adoption of a general plan or without reference to a general plan. Los Angeles has not always avoided this unfortunate tendency to ignore a cardinal principle of sound city planning.

Among the long-established legal principles upon which zoning should be based is that it must be consistent and nondiscriminatory; that is, property in like situations must be treated similarly. Also, zoning must be reasonable; that is, the restriction on individual rights must be logically related to the attainment of a valid public purpose. A general plan, among other things, should serve as a means of defining and demonstrating the fairness and logic of the zoning restrictions applied.

Too often, however, the General Plan has not been brought to bear in the legislative adoption of zoning regulations. Testimony before the Committee pointed out numerous cases where zoning actions were apparently influenced far more by individual arguments, circumstances and pressures than by a consistent and logical rationale for achieving a long-range community plan.

One reason for this situation lies in the vague and permissive language of the City Charter regarding the nature and purpose of the General Plan and the relationship of zoning to the General Plan. Section 97(2)(a) of the Charter merely requires that proposed

zoning legislation be referred to the City Planning Commission for report and recommendation as to its relation to and effect upon the Plan, but contains no requirement that zoning legislation should in fact be consonant with the Plan.

In addition, the Zoning Code is silent on the overall relationship between zoning and the General Plan.

Thus, we find that the proper relationship between zoning and the General Plan has not been adequately recognized either in law or in practice.

Amending the Charter as proposed would (1) firmly establish the relationship between zoning and the General Plan as a matter of law, (2) require that zone change applicants and City officials recognize this essential relationship and (3) aid the courts in determining if challenged actions have deviated from the requirements of contributing to the public welfare in a reasonable and fair manner.

ZONING CODE REVISION

Recommendation 5: A complete revision of the Zoning Code should be promptly initiated. However, since two years or more will be required for this revision, certain changes as recommended in this report should be enacted as soon as possible, pending the completion of the over-all revision.

With respect to present zoning ordinances or the Zoning Code of the City, the Committee has received considerable testimony regarding its patchwork nature—both as to the text of the regulations and the Zoning Map.

In 1946, after several years of concentrated study, a completely new zoning ordinance and map were prepared and adopted—covering the entire City for the first time. Although it was an outstanding piece of work, it has subsequently undergone more than 300 amendments to the text and several thousand changes to the Map. Practically none of these changes has involved a comprehensive study and revision of a major section of the text or a major portion of the Map. Rather, each amendment has been designed to meet a specific situation or a change in circumstances as they arose.

There is now scarcely a paragraph of the Code that has not been amended. Some sections have been repealed and some sections added to cover subjects new and different from those contemplated in the original ordinance. The result is that the Code has become more and more confusing, apparent inconsistencies have increased and the applicable provisions on any given subject are difficult to locate and apply because a logical and orderly structure to the Code no longer prevails.

More basic, however, are the problems which arise because of the significant technological, social and economic changes which have occurred over the last two decades. These changes in turn have given rise to advances in planning and zoning concepts and in legal attitudes reflected in court decisions throughout the country; but many of these advances have not yet been adopted in Los Angeles.

Perhaps the most telling evidence of the inadequacy of the present Zoning Code is simply to look at the development which has occurred in recent years. We have in mind the low-rise, box-like apartment houses which are simply designed to use up all the space which the zoning ordinance allows, without regard to the desirability of open space and some semblance of privacy. Or we can view the jumbled commercial areas where different kinds of businesses have no functional relationships with each other. And we are concerned about the growing ugliness of these areas with their profusion of signs and the vast expanses of parking lots devoid of landscaping.

Complete review and redrafting of the Zoning Code are long overdue. A thorough study should be initiated as soon as possible, utilizing the best available consultants together with technical and legal assistance from City departments. This study should be carried forward in a concerted and expeditious manner until a comprehensive revision of the zoning regulations is achieved.

The Mayor's request for funds for such a study has been approved in the 1968-69 Budget. To aid in the study we suggest the City Attorney assign one of his assistants

on a continuing basis to provide legal advice on the drafting of the new Zoning Code.

We have particularly noted the following suggestions or areas of concern which should be considered, in addition to points recommended elsewhere in this report for more immediate action:

1. The term **comprehensive zoning plan** should be dropped because it is sometimes confused with the **comprehensive general plan**, and may lead to the inference that individual actions such as variances, conditional uses and piecemeal zone changes may be considered apart from comprehensive zoning. The term **Zoning Code** should be used for the entire section of the Municipal Code dealing with zoning, and the term **Zoning Map** should be used for the maps or plans adopted as part of the Code to show the zoning of the City.

2. The grouping of land uses into the various classifications should be established to insure compatibility with each other, including a consideration of performance standards, which are now being used in many jurisdictions.

A part of the difficulty in Los Angeles is attributable to the fact that the uses permissible in any one of the zones, particularly the commercial zones, operate almost totally contrary to those criteria or principles that determine relative compatibility. For instance, in a commercial zone, an auto body repair plant is permitted even though adjacent to apartments. Also, the permitted uses include such businesses as second-hand car operations, a use which involves large open spaces—dead spaces which are inappropriate among a group of shopping facilities—where shoppers might have to go a block or two blocks to get to the next retail store. In the past, Los Angeles has largely ignored this line of reasoning and it should be considered when the zoning ordinance is revised.

Classifying uses on the basis of performance standards has become increasingly prominent in recent years in zoning practice. By giving consideration to characteristics of uses such as population density, hours of operation, traffic flow, physical hazard, noise and pollution, the level of performance should be an important factor in determining the zoning classification for each use.

3. A provision should be considered that in the revised Zoning Code there should be a designation on the Zoning Map of intended future zoning classifications. This technique, which has been successfully employed elsewhere, gives official recognition to anticipated changes of land use in the affected areas. Such changes are not to be permitted until some time in the future or until their exact location and extent are determined. By this means, spotty or piecemeal changes can be avoided. Putting everyone on notice that a change is contemplated will help to avoid the creation of barriers to such change and may encourage joint action by owners to accomplish the change at the appropriate time. It would also tend to promote a suitable sequence of development or redevelopment.

4. Incorporate in appropriate ordinance form up-to-date development standards for signs, parking areas, open space, landscaping, commercial outdoor displays of merchandise and other such matters.

5. The present standards for lot size, setbacks, etc., which are applicable to individual lot-by-lot development should be supplemented with density and open-space standards which will apply to group developments on large parcels.

6. Provide means for tighter control over compliance with special limitations or conditions which are imposed under variances or conditional uses.

7. Clarify the provisions for termination of conditional uses and variances, including a review of the provisions for revocations of variance and conditional use approvals under circumstances of noncompliance.

8. Provide for a simplified procedure to consider certain limited types of temporary conditional uses under criteria and standards specified by ordinance. Conditional approval of such uses should require written findings by a Zoning Administrator and a hearing could be held but would not be required.

This suggestion is intended to provide for the authorization of certain types of temporary land use under conditions which will protect surrounding property. Under the present situation many short-term land uses, such as Christmas tree sales, on-site contractors'

yards, fairs, carnivals or other special events, are likely to occur as zoning violations with no control. This is because the conditional use or variance procedures are too cumbersome and time-consuming in relation to the time period over which the use exists. At present, effective zoning enforcement action against such violations is difficult, if not impossible, for the same reasons. Uses eligible for temporary conditional use approval should be limited to types specified in the Code and should involve no permanent construction or change in the terrain. A definite maximum time limit should be established for all such uses.

9. Eliminate any overlapping of authority between the Office of Zoning Administration and the Building and Safety Department concerning slight modification variances.

10. Clarify the role of the Office of Zoning Administration as the quasi-judicial agency of the City responsible for resolving any uncertainties as to the application of the zoning regulations, subject to appeal to the Board of Zoning Appeals. This authority should include:

- a. Appeals from Building and Safety Department orders as now provided for in Section 12.27A of the Code.
- b. Maintenance of the extended list of land uses permitted in the various zones as now provided for in Section 12.21A2.
- c. Minor zone boundary adjustments, now assigned to the City Planning Commission under Section 12.30G, H, J and K.
- d. Yard and fence adjustments as provided for in Section 12.27C.
- e. Such other determinations as are necessary to clarify and apply the provisions of the Zoning Code.

11. Strengthen the provisions for termination of nonconforming uses. This should be accomplished in a realistic manner so as to avoid the unreasonable confiscation of property rights on the one hand, and to avoid delays in accomplishing the intended result on the other hand.

12. Permit following the provisions of the California Planning and Zoning Law insofar as possible and appropriate.

13. Where possible and appropriate, establish terminology and format generally uniform with other local jurisdictions.

14. The Zoning Code should be organized and written in a style that is easy to understand and apply. The published Code should be supplemented with illustrations and diagrams which clarify the intent and application of the regulations.

We are making a number of other recommendations, found elsewhere in this report, which involve amendment of the Zoning Code. These other recommendations are of such importance that they should be adopted at an early date as amendments to the present Code and not be left for consideration as part of the overall study and revision of the Zoning Code recommended in this section—a study which may require two years or more.

ZONING MAP—REVISIONS BY AREA

Recommendation 6: Establish a procedure for review and revision of the Zoning Map of the City on a regularly scheduled area-by-area basis, such schedule and areas to be established by the City Council upon recommendation of the Director of Planning and the City Planning Commission. Provide in the Charter and Zoning Code, that, unless there are exceptional circumstances affecting the public interest, requests for zone changes should be processed for a given area only during the regularly scheduled review of the area in which the property lies.

We find that the Zoning Map of the City is indeed in need of over-all review and updating. Since the City-wide rezoning in 1946, the City has relied almost entirely on individual applications from property owners to initiate changes in the Zoning Map.

A feature unique to present-day zoning legislation is that the individual property owner is given the relatively unrestricted privilege of applying for a legislative change and then is able to force consideration of his particular request through the entire legislative process. Although valid reasons can be found for this arrangement, it is doubtful that it was originally intended to be more than a rarely used provision which would serve to

protect the individual property owner from grossly unfair zoning. The fact that zone changes by owners' applications rather than by City initiative has become so prevalent is substantial evidence that the City is failing in its responsibility to keep its zoning legislation up to date.

In Los Angeles, however, it must be recognized that the problems of very rapid and large-scale growth and the need to insure that adequate street and utility improvements are made as development occurs has led to this system of allowing the Zoning Map to lag rather than lead development pressures. In effect, the individual zone change is being used as a development permit rather than having zone changes by large areas which would serve as a development guide. By withholding final action on zone changes until subdivision maps are approved, evasion of the subdivision map approval process with its improvement requirements is prevented. This distortion of zoning procedure has been partially corrected with the adoption of the "T"-tentative classification concept. However, owner applications are still relied upon to initiate most zone changes.

This system of using the zoning itself as a development permit device has led in turn to distortion of the General Plan for many areas of the City. In response to the need for some statement of the over-all zoning pattern likely to evolve out of the piecemeal zoning map changes being made, the adopted land use element of the General Plan has tended in some areas to become a rather detailed pre-zoning map.

Particularly in rapidly changing areas, reliance upon the owners' applications to initiate zone changes often results in inefficient, repetitious consideration of the same areas. For example, three separate zone change applications might be filed within a few weeks and involve properties within a few blocks of each other. Unless a special study of the whole area has been initiated, the Department staff and Commission have no choice but to make separate field investigations and reports, hold separate hearings and make separate decisions on these three cases even though most of the information and issues involved are the same.

More importantly, there is not always the opportunity to consider all three matters for their combined interrelationships and impact upon the community before making a decision on any one of them. Obviously with this piecemeal procedure the public is unnecessarily inconvenienced and less able to grapple effectively with the basic community issues which may be involved than would be the case if all the changes for an area could be considered at one time.

Because the City is failing to keep its Zoning Map up to date unless property owners file applications, the imposition of a substantial application fee, to say nothing of the outside costs in time and money for the applicant to present and support his case, produces an additional inequity upon a single small property owner. The large landowner or developer or prospective commercial or industrial land user is not likely to be deterred by such costs, while the individual resident or small businessman will be likely to accept and live with the existing zone pattern in view of the costs, the difficulties of organizing one's neighbors and the uncertainty of the outcome.

It will be impractical to attempt to revise the Map for the entire City at one time. Also, in recognition of the need for the Zoning Map to be more effectively related to the General Plan and of the proposal that community general plans should be regularly prepared and revised on a scheduled area-by-area basis, changes to the Zoning Map should be accomplished on a similar area-by-area basis. By coordinating General Plan and Zoning Map studies, the same field surveys, basic research and analysis could be applied to both, with resulting efficiency, economy and comprehensiveness in Planning Department operations.

The City Planning Department should propose standards for the minimum size and characteristics to be considered in determining such zoning study areas—normally they should correspond to or be logical subunits of General Plan study areas. The Department should also immediately undertake a study to divide the City into appropriate areas for this purpose, develop a proposed schedule and estimate the budget and personnel required to support this activity. The City Council should then adopt

such a schedule and provide the necessary support for the program.

Further details concerning policy for the bounding and scheduling of areas to be considered will need to be worked out. There probably should be a minimum and maximum time between the reviews of any given area. It may be desirable to have overlapping boundaries of the adjacent areas so that fringe area adjustments can be made when changes occur in the basic pattern of any one of two or more nearby communities. However, in order to prevent gerrymandering of boundaries, the boundaries of an area should probably be reviewed following each Zoning Map revision and then must not be changed until after the next revision.

A corollary to this area-by-area procedure is the need to delay action on individual zone change requests until the area as a whole is considered. At present, delays up to 180 days are possible.¹⁰ It is recommended that this time limit be broadened to require withholding of action on individual requests until the next regularly scheduled area review, regardless of the length of delay involved. However, this procedure should not preclude acting on special cases on an individual basis when unusual and acceptable reasons to do so are present. Criteria should be established by ordinance to assist in determining when these exceptional circumstances exist. Such out-of-turn zone change proceedings should only occur to meet pressing public needs and not for the special convenience of particular property owners. Upon request, a determination as to whether or not the required public interest criteria are met in order to justify out-of-turn consideration of a zoning case should be made by the Planning Commission after staff report. Such determination would be appealable to the City Council.

The experience in Pasadena, where zoning applications are only received and considered on a semiannual basis, provides an indication of the benefits of this proposed

¹⁰Los Angeles Municipal Code, Section 12.32D2.

area-by-area procedure. In that city, the number of zone change requests is relatively small and the procedure is readily accepted by the public. There seems to be a tendency for requests to cover block-sized areas rather than one or two lots, and for the requests to be considered more on the basis of community needs rather than solving individual problems and satisfying individual desires.

Once an area-by-area procedure is fully operative, we believe the number of separate zone change cases processed in Los Angeles will be substantially reduced and the result will be better and more stable zoning.

CONCLUSION

In summary, we believe that in order to create a sound legal basis for land use control, the City of Los Angeles needs (1) a more definite foundation in the City Charter and Municipal Code for general planning, (2) the completion and maintenance of a suitable General Plan as the policy basis for the zoning regulations, the Zoning Map and other specific plans, (3) the passage of enabling legislation for zoning to clearly establish this relationship between the General Plan and the Zoning Code, and (4) the complete revision, updating, and maintenance of the Zoning Code and Map so as to lead rather than follow the future development of the City.

CHAPTER 2

UNRAVELING THE LEGISLATIVE, ADMINISTRATIVE AND QUASI-JUDICIAL FUNCTIONS

GENERAL OBJECTIVES

To clearly establish the proper distinction between legislative, administrative and quasi-judicial functions as they pertain to planning and zoning matters.

To prevent improper deviations from the land use plan and standards established by the General Plan and the Zoning Code.

Zoning regulations are established legislatively, must be applied by administrative action, and are subject to quasi-judicial adjustment to assure equal treatment for all citizens.

As a use of the police power, zoning must be reasonable, fair and consistent. Yet, because zoning is concerned with a great variety of uses of land located on parcels of various sizes, shapes and characteristics and because substantial sums of money are often involved in land development, a strong tendency emerges to depart from the principle of fair and equal treatment. When individual requests are made for zoning actions of one sort or another, the stage is set for treating the individual property as a separate case rather than as a part of a whole—in short, to substitute the rule of men for the rule of law. Giving way to this tendency would inevitably lead to complete chaos as far as land use planning and control are concerned, and zoning would become a mockery of the principle of equality before the law.

In our system of government, the basic protection against this tendency lies in the maintenance of the separation of powers among the three branches of government — legislative, executive and judicial — with each

exercising checks and balances in relation to the others. Unfortunately, in local government, particularly in the zoning field, the distinction between these powers has become seriously blurred.

Once a zoning pattern and regulations have been established on an over-all basis, modifications to the basic requirements may occur in three ways:

1. **Legislatively** — Amending the zoning map or the text of the zoning regulations by ordinance.

2. **Administratively**—Determining the application of the ordinance to specific situations within whatever limits and according to whatever guidelines are provided by ordinance.

3. **Quasi-Judicially**—Applying judgment to achieve equal treatment within the intent of the regulations although some deviation from the literal requirements may be involved.

When an administrator overlooks the law or interprets it in a certain way for one property owner and in another way for a different property owner, or when a quasi-judicial body with the power to grant variances uses that authority to grant special privilege rather than to prevent discrimination, then legislative authority is being usurped. When a legislative

body establishes special regulations applying to one piece of property but not to other similar properties without a substantial reason in terms of serving the general community welfare, the legislative body is going beyond its legally granted power.

In smaller cities the city council, in addition to its legislative responsibilities, often acts as both the final administrative and quasi-judicial authority in zoning matters—a situation which tends to perpetuate confusion concerning the legal powers involved. In Los Angeles the City Charter vests certain administrative powers in the City Planning Commission and the City Planning Department, and quasi-judicial powers in the Office of Zoning Administration and the Board of Zoning Adjustment. However, the City Council retains some administrative authority, some administrative decisions have been transferred from the City Planning Commission to the Board of Zoning Adjustment, and the Board of Zoning Adjustment has at times acted as if it had legislative authority. Thus, although the original intent in Los Angeles was to establish separate agencies for the legislative, administrative and quasi-judicial functions, their powers have become mixed, and confusion has been compounded.

LEGISLATIVE FUNCTIONS

In the recommendations of Chapter 1 we sought to strengthen the proper role of the legislative body by providing for the adoption of all zoning regulations in the light of comprehensive, community-wide considerations, and for the constant balancing of individual requests against these public interest considerations. It is then the responsibility of the administrative and quasi-judicial agencies of government to see that the legislative policies and standards are reasonably and equitably applied.

ADMINISTRATIVE FUNCTIONS

Administrative authority can be exercised at several levels which have different degrees of latitude and discretion.

PERMITS AND INSPECTION

Where a zoning code is clear in its standards and requirements, its provisions can be equitably applied to all property and can be administered directly through the administrative agencies issuing licenses and permits. In Los Angeles, the Building and Safety Department is assigned the responsibility for zoning enforcement. If the recommendations of our Committee are carried through, we find no reason for recommending changes in this area of administration.

INTERPRETATION OF THE ZONING CODE¹¹

A second level of administrative action arises when the Zoning Code is ambiguous, causing uncertainty as to its meaning in some situations. In Los Angeles the Building and Safety Department, as the enforcing agency, has the initial responsibility to interpret the Zoning Code. However, its decisions are appealable to the Office of Zoning Administration, with further appeal possible to the Board of Zoning Adjustment. In addition, the Office of Zoning Administration is specifically charged with making certain types of interpretations, such as augmenting the list of land uses permitted in each zoning classification.

We are not aware of specific complaints in this area of administration although there is the possibility that inconsistency between the interpretations of the Building and Safety Department and the Office of Zoning Administration does exist. This possible duplication of interpretive authority should be examined in connection with the revision of the Zoning Code as recommended in Chapter 1.

¹¹Because of the judgmental factors involved, interpretations and conditional use permits are, in a sense, quasi-judicial as well as administrative matters. For the purposes of this report, they are classified as administrative because of the emphasis we place upon limiting such actions by detailed legislative requirements.

CONDITIONAL USE PERMITS

Recommendation 7: Amend the Zoning Code to establish uniform regulations and criteria for specific uses named in the Code as being subject to review and approval with conditions. The consideration and approval of such conditional uses should be an administrative matter under the jurisdiction of the Office of Zoning Administration with appeal to the Board of Zoning Appeals and any further appeal to the courts. (The Committee intends to submit more detailed recommendations and proposed legislation concerning conditional use permits in a subsequent report.)

The board is presently named the "Board of Zoning Adjustment," but is recommended for change of title to "Board of Zoning Appeals" under a succeeding recommendation of this report.

A third level of administrative decision-making occurs when the Zoning Code intentionally provides for the exercise of discretion in certain specified situations. If the legislative body authorizes administrative discretion without supplying legislated standards to guide the administrator, the authorization is an unwarranted and presumably illegal delegation of legislative power. For an administrative body or the City Council acting in a review capacity to abuse such discretion by going beyond the limits of the legislated standards is equally improper and illegal.

This kind of administrative power is involved in conditional use¹³ matters. We find that in some instances serious abuses of the conditional use authority have developed in Los Angeles. This is a subject of major concern to the Committee. There are valid reasons for the proper application of the conditional use technique for controlling certain problem uses and some public service uses, but the serious dangers of discriminatory action must be recognized and avoided.

¹³In other jurisdictions, terms such as special use permit, unclassified use permit, zoning exception, or special exception, are sometimes used instead of the term conditional use permit. We believe conditional use permit is the more accurate and descriptive term except for the limited group of uses discussed in the next section as unclassifiable uses.

The correct view of the conditional use procedure is that it provides for administrative action within legislative guidelines.¹⁴ This necessary and proper emphasis on conditional use decisions being limited by definite guidelines or criteria within the Code is a completely different approach from the wide open provisions of the present Code.

The conditional use section of the Zoning Code provides for consideration of certain types of land uses¹⁴ which because of unusual characteristics are neither automatically permitted in, nor absolutely prohibited from, some zone classifications, and for which definite standards of development have not been written into the Zoning Code. In effect, the City has said such a use may or may not be allowed in a given district, that each case will be treated individually, and that the City will write a special set of regulations or conditions for each such use if and when permitted. The Committee condemns this practice.

The present Code provisions on conditional uses are confusing since some types are under the original jurisdiction of the City Planning Commission appealable to the City Council, while others are handled directly by the Office of Zoning Administration. Of those handled by the Office of Zoning Administration, all are appealable to the Board of Zoning Adjustment, but some of these are further appealable to the City Council while others by implication are reviewable only by the courts (see Figure 3).

The present requirements of the Code for approval of conditional uses are stated too broadly. For a few uses one or two limiting standards are prescribed but for the most part administrative discretion is unfettered.

For those conditional uses to be considered by the City Planning Commission and for those assigned to the Office of Zoning Administration but eventually appealable to the City

¹⁴Section 65901 of the State Planning and Zoning Law provides that: "The board of zoning adjustment or zoning administrator shall hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining such matters, . . ." (emphasis added).

¹⁴As designated in Sections 12.24B1, 12.24C1 and 12.24C1.5 of the present Zoning Code.

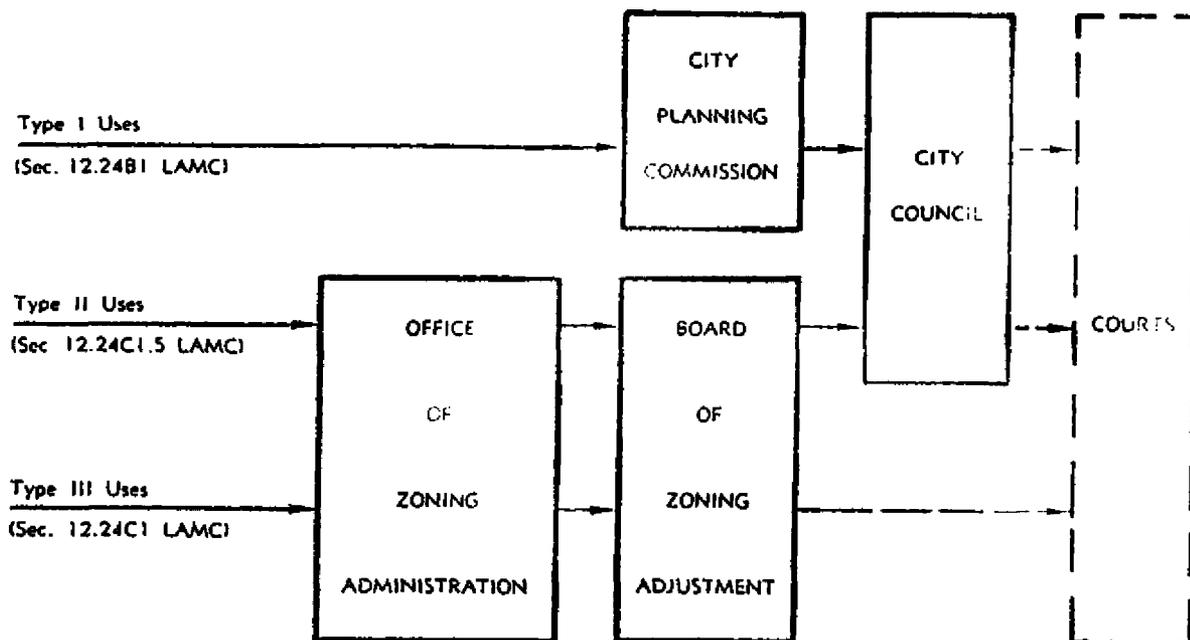


Figure 3. Present Conditional Use Procedures

Council, the only criteria prescribed in the Zoning Code are:

... that the proposed location will be desirable to the public convenience or welfare and will be in harmony with the various elements and objectives of the Master Plan.¹⁵

For the conditional uses assigned to the Office of Zoning Administration and appealable only to the Board of Zoning Adjustment, the Code requirements are:

... that the location is proper in relation to adjacent uses or the development of the community and to the various elements and objectives of the Master Plan, and that the use will not be materially detrimental to the character of the development in the immediate neighborhood.¹⁶

We find these vague requirements to be manifestly inadequate as standards for the equitable and consistent exercise of administrative authority. The regulatory intent and standards must be provided by law; but, because the application of these standards to individual complex situations requires analysis

and judgment, the specific rules or conditions to be followed in a given situation must be applied administratively. When the legislation authorizing conditional use procedures is either lacking or inadequate to serve as a sufficient guideline concerning the standards to be applied by the administrative authority (whether that authority is a department, commission or the City Council itself), legislative power is being improperly delegated. This is a flagrant violation of the basic legal requirement that legislative power can reside only in the elected legislative body. Moreover, the Council is required to act in accordance with its own ordinances.

The State of New York dealt with this problem a number of years ago when it advised local governments that:

The inclusion of only general language to the effect that the special use must be in character with the surrounding area, harmoniously developed, or that the public welfare shall be served, in the opinion of the Board of Appeals or other reviewing agency, has not proved to be an acceptable standard, and has been criticized by the courts. Therefore, in justice to the applicant and the Board of Appeals, every effort should be made to

¹⁵Los Angeles Municipal Code, Sections 12.24B1 and 12.24C1.5.

¹⁶*ibid*; Section 12.24C1.

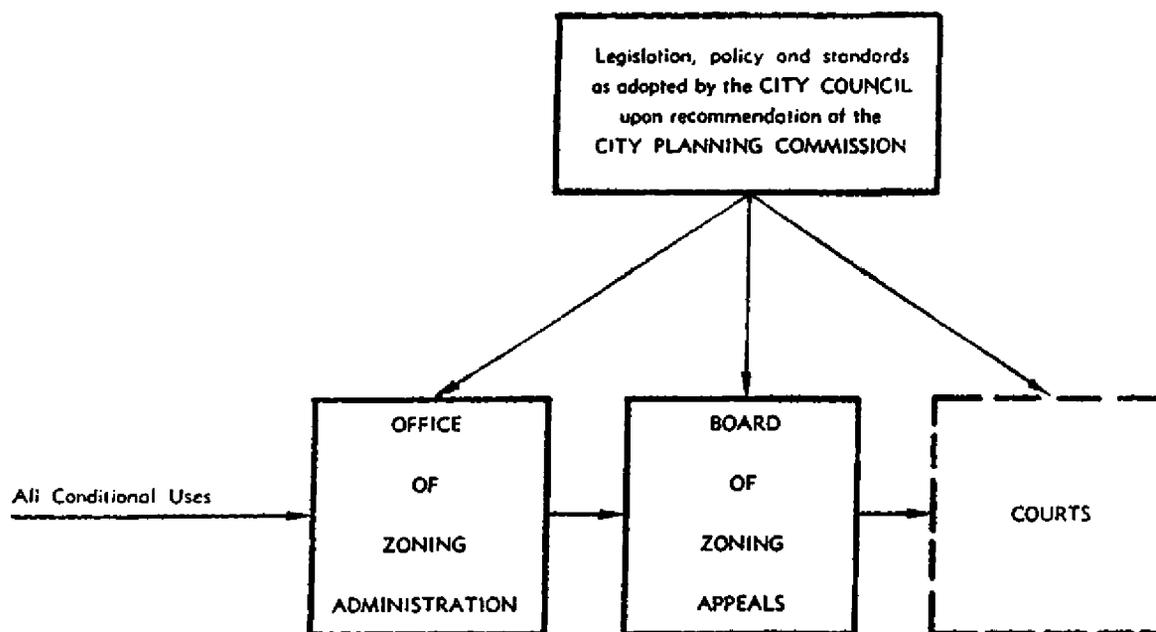


Figure 4. Proposed Conditional Use Procedure

include specific language which sets clearly understandable criteria for each special use.

The aspects of land use which need to be considered include lot area, building setbacks, traffic circulation, access to and egress from streets, building bulk, specific uses involved, the intensity of use involved, and the presence of any harmful effluent or nuisance-creating characteristics. The objectives of these standards are the control of the size, location, nature and intensity of use, and the traffic generated, to those levels which will not materially affect the overall character of the area.¹⁷

The objective of our recommendation is to insure a proper legislative basis for all conditional uses—adequate standards should be spelled out legislatively and applied reasonably, fairly and consistently by administrative action. The City Council must not reserve to itself the right of review over individual cases since this is a purely administrative function.

Under our proposal the issuance of conditional use permits would be under the jurisdiction of the Office of Zoning Administration with appeal to the Board of Zoning Appeals

and thereafter to the courts. The City Planning Commission and City Council would exercise their planning, policy-making and legislative functions in regard to such uses through approval of the Code provisions and the General Plan by which the Office of Zoning Administration would be guided (see Figure 4).

For all conditional uses, specific requirements and criteria which must be met in order for the use to be permitted in the specified zones should be set forth in the Code. Before authorizing each such use, a Zoning Administrator would be required to make written findings showing that the requirements for this use would be met and then impose special conditions to insure compliance with the intent, guidelines and criteria of the Code. If the Zoning Administrator finds that the Code criteria cannot be satisfactorily met, he must deny the request.

The burden of proof that a proposed conditional use will satisfy the Code requirements should be on the applicant, and to this end we suggest the use of a questionnaire or check list technique as part of the application form for conditional uses. The check list should

¹⁷ Zoning in New York State: A Guide to the Preparation of Zoning Ordinances (State of New York: 1958) 93-94.

cover all specific requirements for the proposed use, with the applicant stating how he will meet each requirement. Adoption of our recommendation on conditional uses will correct one of the most serious weaknesses of the present Zoning Code and should go far to prevent improper or discriminatory use of discretionary authority.

Our recommendation is in contrast to Recommendation 3 of the 1966 County Grand Jury which proposed that the Mayor have veto power over conditional use permits. However, we are proposing a completely different approach to conditional use permits so that they no longer will amount to reclassification of property as assumed by the Grand Jury. Instead, we propose conditional uses be limited to administrative action within the requirements of established zoning classifications. Under this circumstance, action by the Mayor and Council on individual cases could lead to greater pressure for special discriminatory treatment rather than providing a protection against such treatment. Nevertheless, certain uses now treated as conditional uses cannot be adequately classified by zone and therefore should be subject to individual legislative action with possible veto by the Mayor. Our recommendation concerning these uses follows.

UNCLASSIFIABLE USES

Recommendation 8: Amend the Zoning Code to provide for individual legislative consideration and approval of those few land uses which because of their unusual nature cannot be listed as permitted—either automatically or as conditional uses—in particular zones. Provide in the Code the criteria for the approval of such uses and require that specific written findings showing how the criteria are met must be adopted before approving any such use. Approval of such uses should be by ordinance, with specific conditions or requirements, after recommendation by the Planning Commission in the same manner as for zone changes. The unclassifiable category should be limited to uses such as airports, cemeteries, higher educational institutions, land reclamation projects and natural resource developments.

As indicated in our recommendation concerning conditional uses, we believe that most uses now treated in the separate conditional use section of the Zoning Code can be included within the regulations of the various zoning classifications. However, we recognize that certain uses of property will remain essentially unclassified as to zone. We have in mind such uses as airports, cemeteries, university campuses, land reclamation projects for refuse disposal and natural resource developments. The list of uses that are truly unclassifiable is limited.

The reasons which make uses unclassifiable are:

1. A large area is usually required for each use and relatively few such uses are likely to occur in the City. To attempt to zone in advance for these uses could seriously upset the supply and demand relationships affecting other land uses.

2. In the case of natural resource developments, location is dependent on discovery of such resources, which were unknown at the time of the original zoning.

3. A mixture of uses may be involved in a single large-scale development, as in the case of educational institutions, which cannot be suitably planned for or controlled through a zoning pattern.

4. A major impact on the surrounding property may be involved, as in the case of airports, so that careful evaluation, design and control are required.

5. The use is not compatible with other uses assigned to zones on the basis of performance standards, as in the case of land reclamation projects, and it would be impractical and unfair to attempt to zone land in advance for a single use.

Because of the difficulties of zoning in advance for these uses, and because of the importance of such uses to the community, we believe it is necessary for each such use to be authorized legislatively, and administrative action with respect to such uses should be permitted only after the basic requirements have been established by ordinance.

The first step in authorizing any of these unclassifiable uses would be for the City

Council, upon request and after recommendation by the City Planning Commission in the same manner as for a zone change (and including required findings), to adopt an ordinance delimiting the area in which such a use could be permitted. The ordinance should include any requirements, in addition to those already specified in the Code, which are necessary to control the effects of the use on the surrounding area. The Office of Zoning Administration would then have responsibility for review and approval of development plans to assure compliance with the legislative intent. The similarity of this procedure with that now used under the supplemental use district provisions (oil drilling sites, rock and gravel quarries, slaughtering houses and stables) of the Zoning Code is apparent, and eventually these provisions might be consolidated with those proposed here for unclassifiable uses.

PLANNED DEVELOPMENTS

Recommendation 9: Planned developments should be treated under the type of conditional use provisions recommended in this report, and not as unclassifiable or supplemental uses.

A matter of special interest and controversy in the City is the question of how to treat large-scale planned developments—particularly planned residential developments. These are developments usually created by a single developer, to be maintained as a unit, and sometimes involve a combination of land uses—for instance, a complex of residential buildings together with commercial buildings and community facilities to serve the residential population of the development. Although attention has been focused on planned residential developments, the principles involved could apply to planned commercial developments and planned industrial developments as well.

At present, planned residential developments may be authorized as conditional uses by the City Planning Commission with appeal to the City Council. It was the 1966 County Grand Jury investigation of such a case which led to the formation of our Citizens Committee.

The latest proposal for changes in the method of controlling such uses, now under

consideration by the City Planning Commission,¹⁶ is an ordinance which would treat planned residential developments as supplemental use districts. These districts would be special overlay zones established by ordinance with individually tailored conditions adopted as part of each such ordinance. In addition, standard conditions to be adopted as part of the Zoning Code would apply. All proposed planned residential development districts would be processed through the Planning Commission in the same manner as zone changes.

While this proposal would be an advance over the present situation where planned residential developments are authorized administratively with practically no legislative guidelines, we do not believe this to be the best solution since the standards applied in each case could still be established on an individual basis without reference to the requirements of the underlying zone.

Since each planned development can be expected to have a predominant use—residential, commercial or industrial—we believe it is a use which can be provided for within the established zoning patterns, subject to the kind of conditional use approval suggested in this report. Under such a provision, planned residential developments would be listed as possible conditional uses in the residential zones with specific criteria and standards which must be met written into the regulations for each zone. These requirements would be designed to be comparable and harmonious with the requirements governing lot-by-lot development in the same zoning classification.

"Q"-QUALIFIED ZONE

Recommendation 10: The Committee strongly opposes the "Q"-qualified zone concept. The desired objective should be met through conditional use provisions as recommended in this report and through revision of the list of uses permitted in the various zoning classifications. If action is deemed necessary before revision of the Code as set forth in Recommendation 5, the procedure suggested in this section should be followed.

¹⁶City Plan Case No. 17155, Council File No. 119,840.

A proposal^{1a} currently before the City Council would create a new form of conditional use permit. Under this proposal a "Q" zone designation could be adopted legislatively in combination with any zone change. The ordinance which applies the "Q" designation to an applicant's property would also specify one or more particular uses, in addition to those uses permitted under the previous zoning, to which the property could be put if it complies with specific conditions included in the same ordinance.

The proposed "Q" zone provisions include no guidelines as to when or where the "Q" designation might be applied. It could be used in connection with any zoning classification, at any location, with any degree of restrictiveness or permissiveness within the limits of the applied zoning classification. There are no rules or criteria established in advance; they will be created to fit each particular case.

The proposal originated from a desire to prevent deceptions in the arguments and proposed development plans presented in connection with zone change applications. This would be accomplished by requiring applicants to comply with special requirements imposed by the City Council in each case where a change is granted. While agreeing with the objectives, we find serious problems with the method suggested.

Our basic concerns are with certain fundamental principles of zoning policy and administration, the ultimate effects on community development and public confidence in the zoning process. The practice to be established under the "Q" zone device is questionable because it violates the principle of adhering to a stable policy and substitutes individual determinations on a parcel-by-parcel basis. The proposal would tend to perpetuate the type of zoning problems which were of concern to the Grand Jury and would be contrary to what we believe to be the necessary direction for improvement of zoning practices.

Our major reasons for opposing the "Q" zone concept are that it would provide great opportunity for uncertainty and inequality in the application of zoning regulations, would

create unwarranted administrative burdens and could very well lead to increased deviation from a general community plan.

The courts have repeatedly recognized that, to be validly employed, zoning regulations should be both comprehensive and consistent. The pending proposal provides no guarantee that it would be so employed.

A fundamental principle of zoning law is that it involves territorial districting, with uniform regulations applying within each district. The "Q" zone would in effect create a separate zoning classification for each parcel of property to which it is applied. Thus, this technique has the potential for completely destroying the uniformity of regulations within districts.

Another basic principle is that the law shall reveal clearly on its face what those rules are which it presumes to establish. A property owner should be able to determine from the zoning regulations what he may and may not do with his property. He should also be able to determine what his neighbors are permitted to do. But with the "Q" zone available, the tendency could be to keep property in a zone other than that eventually intended, just so that individual control could be exercised. Thus, the meaningful zoning rules would not be finally established until an owner requested a zone change, the rules would be adopted on a parcel-by-parcel basis and one would be required to examine the individual zone change ordinances for each parcel of property in order to determine the applicable zoning regulations.

It may be argued that once a "Q" designation is applied to a parcel, the permitted use of that property will be known precisely, in contrast to the range of possible uses under conventional zoning classifications. But we believe this certainty regarding those individual parcels to which the "Q" zone has been applied would be of little value in the face of the great uncertainty which would exist regarding all property to which the "Q" zone had not yet been applied. Thus, the net effect of the "Q" zone technique would be to intensify the now too prevalent lack of public confidence in the stability of zoning—a situation brought about by a piecemeal, individualized approach to zoning changes.

^{1a}City Plan Case No. 20414, Council File No. 132,669

We are also greatly concerned about the degree of fairness likely to be maintained among property owners under "Q" zoning. The effect of the present proposal would be to create an unknown number of what are recognized by the courts, by the legal profession, by planners and by the public as "spot zones". In principle, it means eventual custom zoning for individual parcels of land, which would inevitably result in inconsistent and preferential treatment. Based upon our evaluation of experience elsewhere, "Q" zoning would result in different conditions being imposed on different applicants even though circumstances were similar. The conditions adopted in each case would tend to depend upon the vicissitudes of pressure, salesmanship and personal bias. There should not be this kind of personalized zoning. Unequal treatment under the law in like situations can only result in dissatisfaction with and discredit to the principles of zoning.

The American Society of Planning Officials Advisory Service in commenting on this type of legislation states that:

... there is a serious problem of fairness in administration. If the community adopts a project-by-project approach the possibilities of improper discrimination become very great. It is hard to suggest any solution to this problem. When zoning itself was accepted by the courts, the problem of discrimination grew—just because different rules applied in different zones. The project-by-project approach is just another big step in the same direction. The problem is particularly acute when the only standards to guide decisions on individual projects are so general as to be virtually meaningless.²⁰

Regarding the desirability of such legislation, the comment continues:

... we think the problem of discrimination is tremendously serious. Further, we think there is a danger that a project-by-project approach can be misapplied to lead to the same sort of haphazard development that planners have long and properly been criticizing.

Under the proposed "Q" ordinance there would be a tendency to allow zone changes which might otherwise be obviously unjustified simply because of the comfortable assurance that the conditions imposed would control the

situation and make the specific use palatable to neighbors. But the problem here is that conditions might be more readily set aside or evaded once a zone change is made. With changes in ownership, great pressure could be brought to bear to change the imposed conditions.

The "Q" zone approach would create a potential bargaining situation in connection with every zone change request. An infinite number of decisions would be possible in each case, since any conceivable set of conditions might be imposed. Thus, proponents and opponents, applicants and City officials could become embroiled in interminable negotiations over the exact conditions to be adopted in each case. The burdens in time and effort for everyone involved could become enormous, to say nothing of the temptations for political favoritism and corruption.

The administrative workload created by use of the "Q" zone could become excessive. Hearing examiners would be required to spend a great deal of time developing proposed conditions for each case. These would be subject to repeated revision before final adoption to meet the desires of the Planning Commission and City Council.

Upon enactment of each zone change involving the "Q" zone, a plan checking procedure would have to be applied to insure compliance with the conditions during construction. Subsequently, periodic inspections would be necessary to see that the conditions continue to be adhered to through the years. Enforcement would become most difficult and complicated for the Building and Safety Department, since it would be necessary to refer to an individual "Q" ordinance for each parcel in order to determine requirements.

It has been argued that the "Q" zone proposal would be used in only a limited number of special problem situations. However, we have no confidence that this would prove to be the case. When the conditional use procedure was originally established, similar predictions were made that the procedure would be little used. But experience has proven otherwise. The proposed ordinance contains no limitation on the circumstances under which the "Q" designation might be applied.

²⁰Letter dated March 29, 1962, from American Society of Planning Officials Planning Advisory Service to the Los Angeles City Planning Commission.

Aside from the legal and administrative problems, however, is the question of whether or not the "Q" zone would contribute to achieving planning objectives. It can be argued that carefully tailored planning standards could be imposed in order to achieve precise control of development in accordance with a plan. On the other hand, it seems likely that the availability of the "Q" zone will be an invitation for seeking and approving an increasing number of deviations from an adopted plan. The result would be progressive erosion of community plans and standards.

There are two basic problems which gave rise to the "Q" zone proposal: (1) the large number of incompatible uses which are now permitted in certain zoning classifications and (2) the difficulties of insuring that development occurs in accordance with desirable standards. There are corresponding basic solutions: (1) revise the Zoning Code to provide that only compatible uses are included in each zoning classification and (2) write desirable criteria and standards into the Zoning Code, supplemented by conditional use permit procedures where necessary to insure suitable application of the criteria and standards to specific cases.

Under the present zoning classifications, a multitude of uses are permitted in each zone. As a result, various combinations of use can occur which are detrimental to a community or neighborhood. The problem is particularly acute with respect to the C2 zone—the general commercial zone accommodating everything from art shops to sports arenas. The attempt to apply such a zoning classification to the great variety of commercial land use situations which occur in Los Angeles is probably responsible for most of the interest in the "Q" zone. As it is, the same C2 zone regulations are used to govern such diverse situations as corner service stations in residential neighborhoods, local shopping centers, highway services uses along primary traffic arteries, "automobile rows" for both new and used cars, community business districts and miscellaneous commercial strips prevalent in the older sections of the City.

The first approach to a solution of the problem should be to examine the present assignment of land uses among the various zoning classifications. Insofar as possible, the

assignment of uses should be changed to increase the degree of mutual compatibility among the uses permitted in each existing zone.

To the extent such reassignment of uses is unable to solve the problem, the obvious next step is to consider increasing the number of zoning classifications. Each classification could thus be restricted to a smaller number of compatible uses, and the regulations for each classification could be better designed to meet the intended purpose of the particular classification. Although it would be undesirable to create a large number of additional zoning classifications, this would certainly be preferable to the almost infinite number of individualized zoning classifications which in effect would be created under the "Q" zone.

Recommendation 5 of our report calls for a comprehensive revision of the Zoning Code. A major element of this revision should be a reclassification of land uses as just discussed.

The second basic approach to the problem is through the specification of criteria and standards to be met in developing specific uses in zoning classifications. Whenever possible, these specifications should be sufficiently definite so that they can be compiled with without further interpretation. However, in those cases where some interpretation is necessary to apply the criteria and standards to specific cases, then the conditional use permit technique should be used. This involves providing specific guidelines in the Zoning Code to govern the administrative approval of individual uses of property within a zone. Such guidelines or criteria are being used successfully in many cities. Recommendation 7 of our report deals with the type of conditional use provisions and procedures which we believe should be followed.

To revise zoning classifications and restructure the entire conditional use regulations of the Code will necessarily require a considerable period of time for overall analysis and enactment of new provisions. In the meantime, it may be desirable to make some amendments to the existing Zoning Code to deal with those situations which gave a sense of urgency to the "Q" zone proposal. To do this, the following steps are suggested:

1. Identify the particular uses which create the problem and the types of circumstances where the problem occurs. These uses should be listed in priority order.

2. In order of priority, develop criteria and standards to apply to these uses in the situations of concern.

3. Write regulations for these uses, including criteria and standards, to become part of the conditional use provisions of the present Zoning Code. These should be placed among the uses initially acted upon by a Zoning Administrator. The zoning classifications within which each such use is eligible for consideration should be designated.

4. Where it proves inappropriate to provide for these problem uses as a conditional use within existing zones, then it may be necessary to create one or two new zoning classifications as an interim measure pending more comprehensive revision of the Code. For example, the C3 zone designation, which is not in use at present, might become a new neighborhood commercial classification, permitting planned neighborhood shopping centers, service stations and related uses, with stringent development standards to make such uses acceptable adjacent to residential areas.

In summary, we commend the Council's Planning Committee in seeking to eliminate deceptions in zone change proposals. However, in the light of the above discussion, we view with alarm the proposed "Q" classification ordinance and instead propose:

1. As a long-term solution, the problem of incompatible uses within a zoning classification should be resolved as part of a comprehensive revision of the Zoning Code by providing that only compatible uses be included within each zoning classification.

2. As part of an over-all revision of the Zoning Code, the conditional use regulations should be revised to provide definite criteria under which specific problem uses may be authorized, with conditions, in designated zones.

3. As a short-term solution pending complete revision of the Zoning Code, those uses that require more controls should be provided for by including them among the conditional use provisions, but with criteria and standards for their approval set forth in the Code. (In addition to this recommendation see Recommendations 5 and 7.)

ZONING ENFORCEMENT

Recommendation 11: Provide adequate staff in the Building and Safety Department for regular inspections and follow-up on compliance with zoning regulations, particularly the special requirements of conditional use and variance approvals. The City Planning Department should assist in enforcement by checking compliance with zoning requirements during area planning surveys and referring violations to the Building and Safety Department.

By Charter provision²¹ the Building and Safety Department enforces the Zoning Code. This responsibility includes all special conditions which may be applied to conditional use and variance approvals. At present, all zoning enforcement action occurs through either the issuance of building and other permits and the subsequent inspections during construction, or upon receipt of complaints from the public or other governmental agencies.

From the standpoint of the Department of Building and Safety, the enforcement of special conditions applying only to individual properties presents a difficult problem in record keeping, interpretation, inspection and follow-up. Suggestions have been made to establish a special unit, in either the City Planning Department or the Building and Safety Department, to deal specifically with enforcement of these special conditions established under conditional use permits or variances.

Regarding enforcement, we believe the present relationship between the Building and Safety Department and the City Planning Department is the most efficient and workable approach. The basic problem is availability of staff for enforcement work. A secondary problem is the need for more communication about possible zoning violations between field personnel of other departments and the Building and Safety Department. The City Planning Department, which is familiar with zoning regulations, should look for and report possible zoning violations during its regular field surveys for planning and rezoning studies.

²¹Los Angeles City Charter, Section 90.

QUASI-JUDICIAL FUNCTIONS

VARIANCES

Recommendation 12: Clarify and strengthen the Charter limitations on the granting of variances as follows:

1. Set forth the quasi-judicial nature of variance determinations and prohibit use of the variance to accomplish purposes which should properly be accomplished through legislation.
2. State the over-all intent and purpose of the variance provisions as a means of insuring equal application of zoning regulations to property in similar situations but prohibiting the use of the variance to grant special privileges.
3. Clarify and add to the requirements for the findings which must be made in order to grant a variance. Retain the basic principles contained in the present four requirements, but make them more specific. These tests for granting of a variance should be capable of realistic but strict application.

4. Provide that, in granting a variance, self-imposed hardships are not a proper consideration.
5. Include more specific limitations on the circumstances under which variances from permitted land uses are justifiable.

The legal theory upon which variances are based is often misunderstood by the public and sometimes, unfortunately, by lay officials appointed to handle variances. The sole legitimate purpose of variances is to modify the application of a zoning ordinance as it applies to a given piece of property to bring the privileges of that property to a parity with other properties similarly located and classified (see Figure 5). The variance device should never be used in the opposite direction to grant special privileges. By proper adjustment of equities, the use of the police power in the form of zoning is brought into conformity with constitutional limitations upon its use by assuring that it will deal similarly with all persons or properties under similar circumstances.

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1. Straight line represents equal privileges to all properties in a given zone and vicinity. This is as it should be.



2. Depression represents a property which, because of special circumstances is deprived of privileges enjoyed by others in same zone and vicinity. Dotted line represents a variance authority that brings discriminated property to a parity with all others in the zone and vicinity.



3. Situation begins as shown on straight line #1, but through granting improper variance subject property is given special privileges as illustrated by the heavy dotted line while, at the same time other properties in vicinity are thereby depressed as shown by light dotted line.

Figure 5. Proper and Improper Use of Variances

Because zoning regulations for a given district must apply to parcels with differing sizes, shapes, topography and other characteristics, it is virtually impossible to write regulations that will apply equally to all situations in a specific zone. Thus, the variance was designed as a technique for maintaining equal treatment under circumstances which could not be adequately anticipated in advance in the adopted regulations. This is essentially a judicial matter, but because the process is provided within an administrative framework and not as part of the court system, it is generally referred to as quasi-judicial.²²

The City Charter now sets forth four tests to be met before a variance can be properly granted:²³

1. The strict application of the zoning regulations or requirements would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the regulations.

2. There are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood.

3. The granting of a variance will not be materially detrimental to the public welfare or injurious to property or improvements in such zone or neighborhood in which the property is located.

4. The granting of a variance will not be contrary to the objectives of the Master Plan.

Testimony from several sources consistently pointed out that the wording of the Charter-defined required showings for validating variances, if literally applied and without defining reasonable and workable interpretations of intent, would make the granting of many variances technically difficult. However, pioneering efforts of the Office of Zoning Administration, beginning twenty-seven years ago, revealed that it was possible and necessary to develop reasonable interpretations by which the objective of the variance could be

realized, and such interpretations subsequently have been consistently employed.

A partial explanation of the enviable record established since the inception of the Office of Zoning Administration in Los Angeles is found in the policy and practice of developing specific and pertinent findings upon which decisions in given cases were based. This practice established an ever-increasing foundation of record precedents that assured consistent decisions in variance matters.

On the other hand, we find that in recent years, the Board of Zoning Adjustment in many cases has been inconsistent and superficial in its recognition of and conformity to the Charter-required showings in variance cases. Another practice of the Board has been to ignore or evaluate inadequately the findings made by the Zoning Administrator and for the Board to fail to develop specific and adequate findings of its own as the basis for its actions on appeals. Testimony and the record show that actions on the part of the Board of Zoning Adjustment have included so-called findings, but such findings usually have been generalizations, surprisingly similar regardless of the specific issues in each case.

In addition, in many cases the Board, through the device of the variance, has approved projects that can be validly accomplished only by legislative action. In a number of these cases, Board approval was given even though requests were previously denied by both the Planning Commission and the City Council. This constitutes, in fact, a usurpation by the Board of Zoning Adjustment of the legislative function which is vested properly and exclusively in the Mayor and Council.

We believe that since January 1, 1968, the Board has been operating in a sound manner. However, there should be Charter changes to insure that future boards serve their proper function.

A variety of suggestions have been made to the Committee relative to improvement in the basic requirements, practice and procedures as to variances, all of which we have carefully considered.

²²See Appendix C for further discussion of the history of the variance principle and its use in Los Angeles.

²³Los Angeles City Charter, Section 98(2).

We conclude that a strict literal construction of the present findings required by the Charter as prerequisite to the granting of a variance would make it almost impossible to grant many worthy and proper variances. The Chief Zoning Administrator, recently retired, has suggested that good zoning practice would justify some modification of present Charter provisions, with which suggestion the Committee concurs.

We further conclude that the basic corrective action should be a revision of the Charter-specified tests for the granting of variances, coupled with reinforced requirements that the appeal body must adhere strictly to these tests. The objectives of this Charter amendment are set forth in Recommendation 12. In a later report the Committee will submit a suggested text for such Charter change. Additional recommendations dealing with the zoning administration function and the appeal body are covered in various ways in succeeding sections of this report.

OFFICE OF ZONING ADMINISTRATION

Recommendation 13: Retain the present powers, relationship and civil service status of the positions of Chief Zoning Administrator and Associate Zoning Administrators.

One of the critical issues with which we have been concerned is the place of the Office of Zoning Administration in the City's organizational structure.

The creation of the position of Zoning Administrator in Los Angeles in 1941, with the power to grant variances and certain conditional uses and to make other interpretations of the Zoning Ordinance, was a unique and pioneering step in the history of zoning in the United States. The conduct and accomplishments of the Office over the years have outstandingly demonstrated the merit of this system. In 1957, by Charter amendment, the Office was broadened from a single Zoning Administrator to include a Chief Zoning Administrator and several Associate Zoning Administrators, each with the authority to make determinations.

As constituted from 1941 to the present, the Office has been administratively a part of the City Planning Department. However, the

decision-making authority on the zoning matters assigned to the Office is not subject to control by any other officer of the City, except upon formal appeal to the Board of Zoning Adjustment. This arrangement is designed to protect the quasi-judicial character of the decisions, thus maintaining separation from the legislative and executive branches of City government.

However, suggestions have been made periodically either to integrate the Office of Zoning Administration more fully into the City Planning Department under the management of the Director of Planning or to make a complete separation and give the Office its own budget and authority over personnel and other administrative housekeeping matters.

After a study of the City Planning Department in 1956²⁴ this issue was raised. In 1957 the City Council resolved it by reaffirming the present Charter provision by which the Director of Planning appoints Zoning Administrators under civil service procedures.²⁵ In 1959 the Council adopted the following section of the Zoning Code, which further defines the administrative relationship between the Director of Planning and the Office of Zoning Administration:

The Chief Zoning Administrator shall be in direct charge of the Office of Zoning Administration. He shall assign applications and all other matters under the jurisdiction of that Office among the Associate Zoning Administrators and himself so as to distribute the workload equitably between them. He shall also prescribe the style and content of the forms to be used. He shall determine and establish, with the advice of the Associate Zoning Administrators, the administrative methods and procedures to be followed in the Office of Zoning Administration for the purpose of simplifying them insofar as practicable in making it possible to render sound decisions expeditiously. The Director of Planning may review the established forms and procedures when deemed advisable, and may recommend such changes or improvements in administrative procedures as will more effectively further the purposes of the office.²⁶

²⁴Adams, Howard & Greenley, Consultants, "Report to the Board of City Planning Commissioners, City of Los Angeles, on the Los Angeles City Planning Department," November 1956.

²⁵Los Angeles City Charter, Section 98.

²⁶Los Angeles Municipal Code, Section 12.27.

We believe the following principles are importantly involved in making it possible for the Office of Zoning Administration to function with the high degree of integrity, judiciousness and consistency it has demonstrated for more than a quarter of a century:

1. Authority and responsibility for assigned zoning determinations must go hand in hand. A Zoning Administrator's decisions should not be subject to influence, dictation, modification or reversal by other authority except through formal quasi-judicial appeal procedures.

2. Appointees to the positions of Chief Zoning Administrator and Associate Zoning Administrator must have the highest degree of integrity and must be highly competent in the areas of planning, zoning administration and applicable law.

3. Stability in office should be protected so that the Zoning Administrators are responsible in their decisions only to the law and the public interest and cannot be influenced by pressures from special interests or by political considerations.

We conclude that these objectives can be best met by retaining the present organizational structure. The basic function of the City Planning Department is to do comprehensive planning. To place the Office of Zoning Administration more directly under the authority of the Director of Planning could unnecessarily subject the Director to political pressures and interfere with his essential planning responsibilities. It could also lead to undue interference in the impartial, quasi-judicial character of the Office of Zoning Administration. On the other hand, to remove the Office completely from the City Planning Department would be administratively undesirable because of the need to use Department records, to coordinate with other planning and zoning matters and to avoid unnecessary duplication of housekeeping functions.

Finally, in order to emphasize the proper role of the Zoning Administrator and to lay the basis for the proper functioning of the appeal body as discussed in the next section:

Recommendation 14: Amend the City Charter to clearly define the authority of a Zoning Administrator as quasi-judicial, making it clear that no actions shall be taken which usurp legislative authority.

BOARD OF ZONING APPEALS

Recommendation 15: Amend the Charter to change the title of the Board of Zoning Adjustment to its original designation as the Board of Zoning Appeals and to limit the jurisdiction of the Board to appeals from determinations of Zoning Administrators. The Board should not have jurisdiction over matters outside the proper scope of its appellate function.

We are seriously concerned with the manner in which the Board of Zoning Adjustment has functioned in recent years and with the present assignment of jurisdiction and functions to the Board.

In 1941, a Charter amendment created the Board of Zoning Appeals, consisting of three citizens, with the sole function of considering appeals from decisions of the Zoning Administrator. A 1963 Charter amendment expanded the Board to five members, changed its name to the Board of Zoning Adjustment and provided that the City Council may, by ordinance, transfer certain functions from the City Planning Commission to the Board. Pursuant to this provision, the Board has been delegated the responsibility for acting upon building lines and reviewing public property acquisitions and dispositions, parcel maps and private street maps, in addition to its basic responsibility for zoning administration appeals.

While recognizing that these changes were designed to relieve the City Planning Commission of a heavy workload of minor decisions and enable it to deal more effectively with major planning issues, this change has produced a confused pattern of decision-making and handling of appeals among the various categories of planning and zoning matters. We believe that the assignment of these additional duties makes it difficult for Board members to distinguish clearly the differing criteria for decision on the various types of cases.

More important is the fact that the number of appeals taken from Zoning Administrators to the Board of Zoning Adjustment and the proportion of reversals of Zoning Administrators' decisions have risen significantly in recent years. Figure 6 illustrates this trend

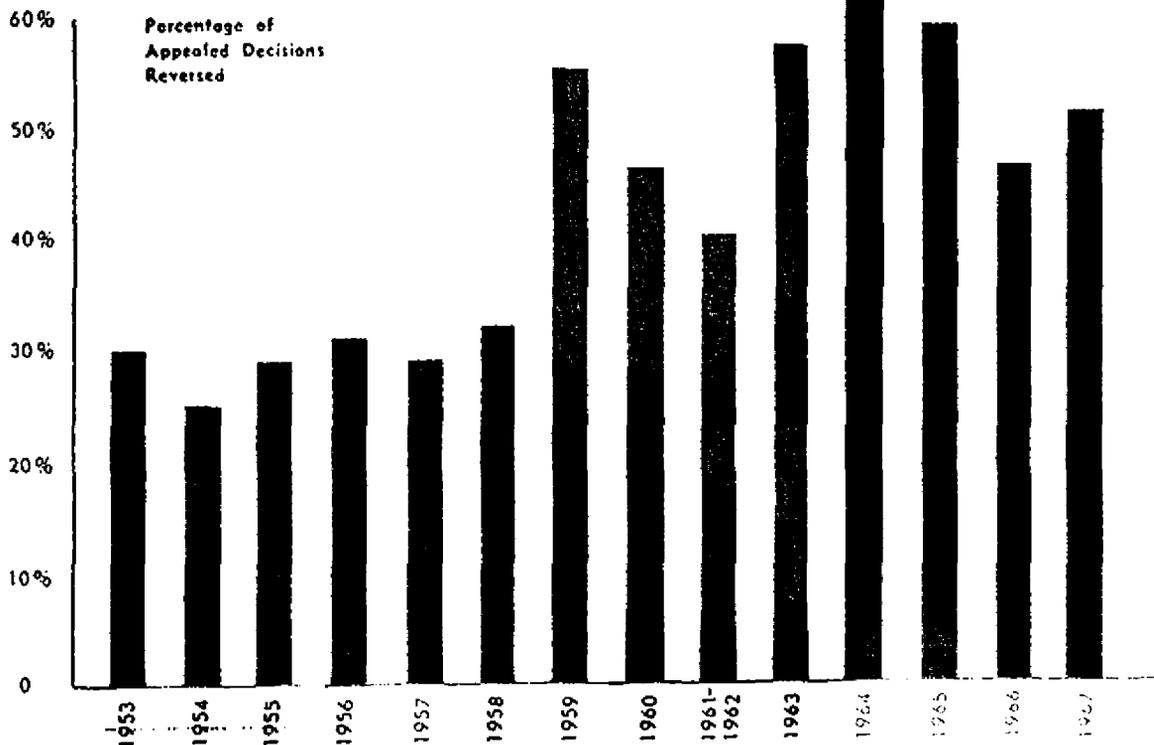
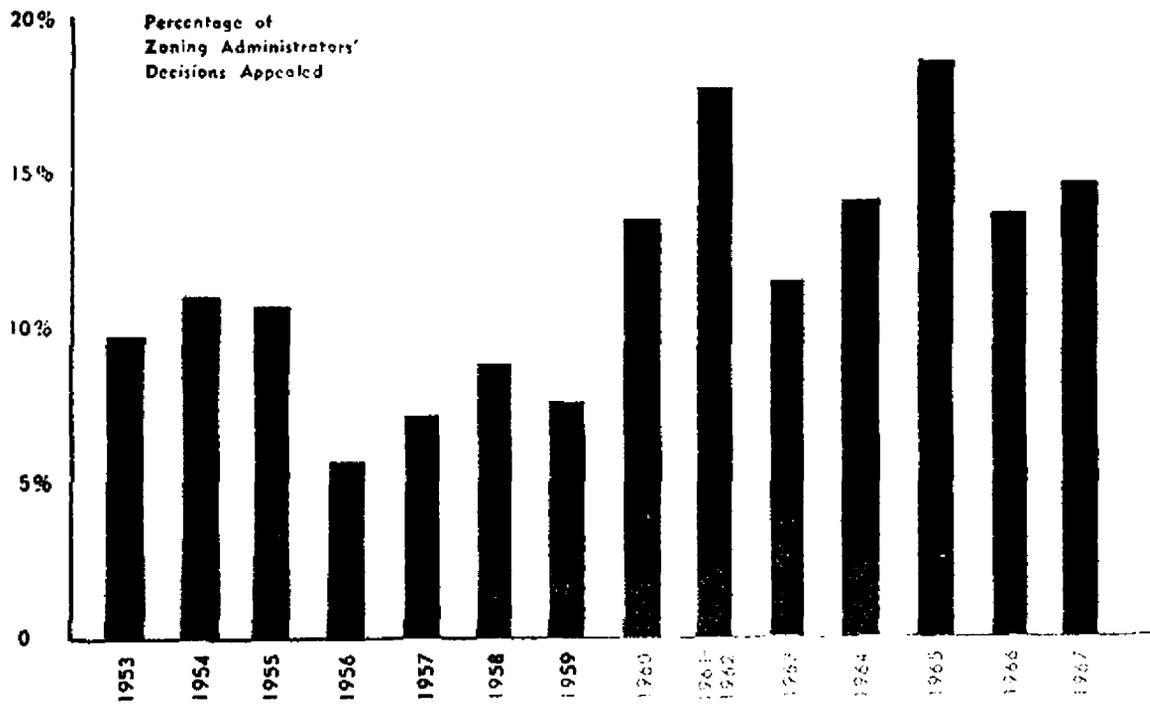


Figure 6. Board of Zoning Adjustment Actions on Land Use Variances

with respect to land use variances—the most important category of cases upon which the Board acts and for which the governing laws have not changed over the years.

The essential function of the Board is to consider appeals in quasi-judicial matters. A proper judicial approach is limited to reviewing decisions made by others (in this case by Zoning Administrators) and interpreting the legislatively established regulations according to the criteria set forth in the regulations. This function does not properly include creating and applying a different set of rules.

Those matters—building lines, public land acquisitions, parcel maps and private street maps—which were delegated from the Planning Commission to the Board pursuant to the 1963 Charter amendment are not quasi-judicial matters. They are matters which involve either administrative planning decisions or advice to the City Council on legislative and

policy questions. The result is that the Board's responsibilities, and the types of reasoning required, have become so mixed that the Board has not been properly carrying out its basic quasi-judicial function, has been granting special privileges and has been failing to support its decisions with evidence and reasoning related to the Charter-required criteria for its actions.

To alleviate this problem, the non-quasi-judicial matters should be removed from the jurisdiction of the Board of Zoning Adjustment and either returned to the City Planning Commission or delegated to the Director of Planning for decision (see Figures 7 and 8). For the purposes of this report, we have classified conditional use permits as an administrative function. However, our Recommendation 7, proposing that all conditional use permits be handled by Zoning Administrators with appeals to the Board of Zoning Appeals, does

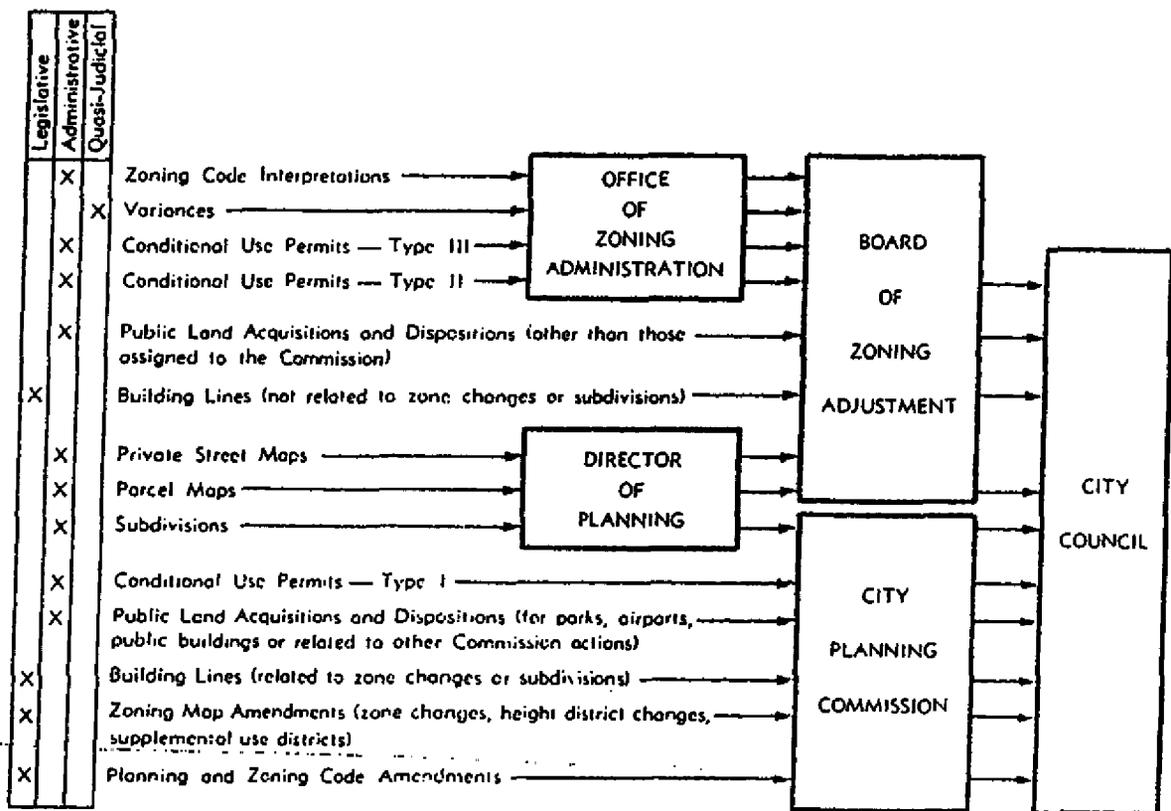


Figure 7. Present Assignments for Determination of Planning and Zoning Matters

not alter the basic quasi-judicial character of either the Office of Zoning Administration or the Board of Zoning Appeals, since conditional use matters involve the interpretation of legislatively established zoning regulations and criteria.

Our proposed realignment of responsibilities to completely separate the functions of the Board of Zoning Appeals from those of the City Planning Commission and City Council will make clear that the Board is not a policy-making or legislative agency and that its essential responsibility as a quasi-judicial body is to insure that Zoning Administrators comply with the law.

Grand Jury Recommendation 3 proposed that all rulings of the Board be appealable to the City Council, with veto power by the Mayor. The Jury felt that this would provide a more effective remedy to improper Board actions than does the expensive process of appeal to the courts. We find, however, that such procedure would place undue individual pressures upon elected officials, with greater tendencies for political rather than judicial de-

isions on these quasi-judicial matters. The better remedy, we believe, lies in improving the definition and limitation of the scope of the Board's functions so that the Board itself is an effective appeal "court".

CONCLUSION

The recommendations of this chapter are designed to restore to each agency concerned with zoning matters its distinct and proper function as originally intended by the City Charter and as defined by the principles of sound zoning practice. Thus, (1) the City Planning Commission and City Council should be concerned with laying down the rules legislatively, (2) the Office of Zoning Administration should provide consistent and fair application of the rules to situations requiring discretion or judgment and (3) the Board of Zoning Appeals should serve to insure that the Office of Zoning Administration operates within the rules. Finally, (4) the Building and Safety Department should be the agency to prevent and correct violations of the rules.

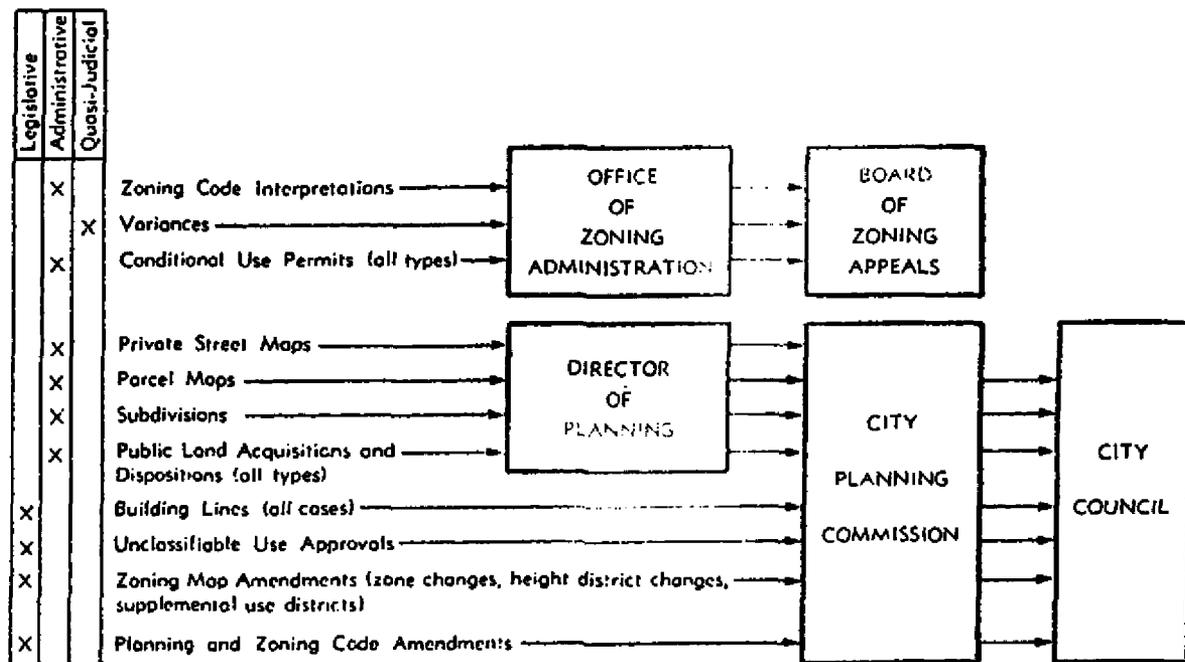


Figure 8. Proposed Assignments for Determination of Planning and Zoning Matters

CHAPTER 3

INSURING FAIR, UNDERSTANDABLE AND EFFECTIVE PROCEDURES

GENERAL OBJECTIVE

To maintain procedures which guarantee due process and equal treatment, which are simple and easily understood, and which lead to decisions in accord with legislative intent and policies.

Zoning issues involve the delicate problem of balancing community interest against individual rights. Each individual has a stake on both sides of the scale. The concept of due process represents a guarantee that these individual and community stakes will be carefully weighed before decisions are made.

To apply this democratic principle to the zoning process requires that zoning decisions—whether legislative, administrative or quasi-judicial—be made in full public view and with the opportunity for submission of information by the public, including the expression of attitudes. At the same time the public needs to understand the essential relevant principles of law involved and the role of professional analysis in the zoning process. Basic to this process are:

- The right of petition
- The right of notice
- The right of public hearing
- The need for competent technical and professional analysis
- The application of sound judgment
- The necessity of reaching timely decision
- The right of appeal

In Chapter 1 we proposed a system of regular area-by-area review and amendment of the General Plan and the Zoning Map. This system is intended to keep planning and zoning controls up to date and attuned to community needs and desires. It should also reduce the volume of individual requests for change in, or relief from, zoning restrictions. But whether changes are considered by area review or individual request, the process followed should recognize the above principles of effective, democratic procedure.

In Chapter 2 we emphasized the differences between legislative, administrative and quasi-judicial functions in zoning matters. The concept of due process and public participation is involved in all three types of zoning actions. For this reason, we believe the basic elements of sound procedure as discussed in this chapter should apply to all three functions. In addition, a uniform procedure in all zoning matters should assist the public to understand all types of zoning cases.

Although procedures may be uniform, it is important to emphasize that the issues to consider are different in each type of zoning case. Figure 9 indicates the differences which

Function	Type of Zoning Case	Decision-Making Agency		Issue Involved
		Initial Consideration	Final or Appeal Agency	
Legislative	Zoning Map Change Unclassifiable Use Approval Supplemental Use District	City Planning Commission	City Council	What regulations should be applied in various districts to serve the community interest and carry out the General Plan?
Administrative	Conditional Use Permit	Office of Zoning Administration	Board of Zoning Appeals	What is the correct application of the law to the property involved?
Quasi-Judicial	Variance	Office of Zoning Administration	Board of Zoning Appeals	What adjustment of the general regulations is necessary to treat an individual property fairly and as intended by the law?

Figure 9. Types of Zoning Cases (as Recommended)

would exist among types of zoning cases if the various recommendations of this Committee are adopted.

In this chapter we present recommendations about the various steps in zoning procedures, particularly as applied to zone changes, conditional use permits and variances.

PROCEDURES

Recommendation 16: Amend the Municipal Code to provide simple and uniform procedural requirements governing applications, notices, hearings, time limits and appeals for all types of planning and zoning cases. Also provide that each agency having jurisdiction in such matters must formally adopt and publish any rules of procedure which are used.

At present the procedural requirements for each type of zoning case are treated separately in different parts of the Zoning Code. Although generally similar, there are minor differences, due in part to piecemeal amending of various sections of the Code at different times. A separate section of the Municipal Code includes additional provisions on time limits, appeals, and fees which apply to all

types of zoning cases.²⁷ To simplify and increase understanding of zoning procedures, it is suggested that all of the procedural requirements applying to zoning matters be placed in one section of the Zoning Code and should incorporate the points presented in the rest of this chapter.

Each official agency involved in the planning and zoning process (including the City Planning Commission, Board of Zoning Appeals, City Planning Department and Office of Zoning Administration) is and should continue to be empowered to adopt additional rules of procedure for the conduct of its business, supplementing the Code requirements. For the public to be adequately informed, a Code requirement should stipulate the adoption of any such rules by formal action of the agency involved and their publication in convenient form for public distribution.

FILING OF APPLICATIONS

No major changes in the filing of applications are recommended. However, we do feel that there could be some simplification, together with emphasis on the department securing specific, accurate and complete information from the applicant.

²⁷Los Angeles Municipal Code, Chapter 1, Article 9.

Currently at least fifteen different kinds of application and appeal forms exist for various types of zoning requests. In addition to the varying requirements of the Zoning Code, each zoning decision agency (City Planning Commission, Board of Zoning Appeals, Office of Zoning Administration) prescribes its own detailed rules for the submission of applications, including the forms, required information, who is eligible to file and whether or not sworn affidavits are required.

Among the problems brought to the attention of the Committee have been the lack of an adequate record upon which subsequent actions are based and the possibility of unverified information being accepted as fact. To promote more uniform and explicit requirements for the submission of applications, it is suggested that the Director of Planning should be delegated the authority and responsibility to prescribe the application and appeal forms and rules for all zoning matters other than those under the jurisdiction of the Office of Zoning Administration. The Director of Planning and Chief Zoning Administrator should cooperate to make all zoning application procedures as straightforward, clear and uniform as possible.

As a means of securing complete information pertinent to the questions involved in each type of case, it is suggested that a check list or questionnaire should be developed for each type of application, by which detailed and comprehensive information on the circumstances pertinent to the case would be provided and attested to by the applicant.

Although the authority appears to exist now, the Code should be clarified as to the authority of the Director of Planning and Chief Zoning Administrator to reject applications which provide insufficient information or are incomplete.²⁸ If such insufficiency is discovered after acceptance, the authority to stay the running of time limits with immediate notice to the applicant should be clear. When necessary, counsel of the City Attorney should be used to assist the Director of Planning and Chief Zoning Administrator in their determinations about the insufficiency of applications.

²⁸Los Angeles Municipal Code, Section 19.00A.

PUBLIC NOTIFICATION

Recommendation 17: Provide timely and effective notification to all interested parties concerning hearings on planning and zoning cases through improvements in the record keeping and data processing procedures of the departments involved.

At present, notices of public hearing are mailed to owners of property within 300 feet of the property involved in a request for zoning action. A notice is also published as legal advertising in a newspaper of general circulation. Both types of notice must be made at least ten days before the hearing. For large areas being rezoned a means for adequate notification should be developed.

MAIL NOTICES

Numerous complaints were received about inadequate notice of pending zoning matters. Apparently, hearing notices often are not received at all or too late by interested parties, and the notices are sometimes difficult to understand.

We believe that timely and effective notice should be given to the public about zoning proceedings. To this end we suggest the following improvements:

1. The format and wording of notices should be clear, straightforward and as simple as possible. Long sentences should be abandoned in favor of short statements under subject headings. Diagrams should be included to avoid complicated verbal descriptions of locations and boundaries.

2. Ownership lists for the mailing of notices should be prepared by the City rather than relying upon the submission of such lists by applicants.

3. Data processing systems should be developed and improved as rapidly as possible to insure the mailing of notices to current owners at their present addresses. The Code now requires use of City Clerk's records for address purposes. Apparently, these records are often inaccurate due to either the failure of owners to report a change in mailing address or delays in reports of title transfer being recorded by the City Clerk's Office. We understand that an electronic data processing

system is under study by the City which will permit the continuous automatic updating of the City Clerk's records.

4. When data processing systems permit, provision should be made for mailing notices to residents who are not property owners. The City has under study the possible development of a computerized street address file which should eventually make this possible. This provision would improve public representation because tenants may have a somewhat different point of view than owners—particularly absentee owners—and because some occupant-owners may not be recorded as such on title records due to financial, trust or partnership arrangements.

5. For cases where public hearings are not held, but where information from the public could be pertinent, notification should be sent which solicits written comments by a specified date. Under the present policies and regulations, there are three classes of cases to which this could apply: (a) conditional uses for public utilities and governmental enterprises, for which notice of hearing other than to the applicant is not required; (b) land use variances, which are not required to be set for hearing although the Office of Zoning Administration always does so as a matter of policy; and (c) area variances involving only yard and setback regulations, which the Office of Zoning Administration normally does not set for hearing. For use cases this notification should be to owners and residents within the 300-foot radius while for area cases it might be made only to owners and residents of adjacent properties.

SUBSCRIPTION SERVICE

Recommendation 18: Establish a subscription service to provide notification to any interested individuals and organizations not otherwise notified.

Suggestions have been made that notice should be given to a wider area than the present 300-foot radius. Recognizing that the number of people to be notified tends to go up in geometric proportion to the radius, with corresponding costs to the City, we favor a subscription service which should be available

to anyone. There should be two phases to this service:

1. For hearing notices, mailing lists should be maintained for subscribers by neighborhood or community areas.

2. For mailing of reports and notices of actions subsequent to hearings, separate mailing lists should be established for each case.

A fee should be charged sufficient to cover the cost of these services.

NEWSPAPER PUBLICITY

Although we do not recommend any change in the requirements for newspaper notices, such notices, buried in the legal advertising section of a newspaper, are relatively ineffective.

News reporting on planning and zoning matters in advance of public meetings and hearings should be encouraged as a means of stimulating public awareness and interest. A simple technique would be to issue a suitable press release at about the same time as each hearing notice is issued. We suggest that the Planning Department consider adopting this practice, with distribution to local newspapers in accordance with their deadline dates.

CONDUCT OF HEARINGS

Public hearings should be conducted in a manner which fairly and accurately develops the information upon which sound decisions can be based. In addition, the conduct of hearings should be such that the public has confidence in the fairness, completeness and correctness of the proceedings.

We received considerable comment to the effect that hearings have not always been fairly and properly conducted—particularly on the part of the Board of Zoning Adjustment. In addition, many comments suggest that the public finds the proceedings difficult to understand and follow, with occasional hostility and a resulting loss of confidence.

At present, hearings are conducted by either a staff officer or an appointed citizen board. Most original hearings are by professional staff—hearing examiners (acting on behalf of the City Planning Commission) or Zoning Administrators. Because of the large

number of cases, the Planning Commission itself does not normally conduct official hearings. Unfortunately, however, many Commission meetings become in effect rehearings of the cases before them, due to a rather liberal policy of allowing the interested public to ask questions or to comment.

Under our proposals concerning the functions of the Board of Zoning Appeals, this body would be limited to examining the record made before the Zoning Administrator for possible errors of judgment. The only exception would be in the case of a transfer of jurisdiction where a Zoning Administrator has failed to act within the time limit. In this case the Board would consider the case de novo.

All the officers and agencies involved in conducting hearings or subsequent deliberations should insist upon full and complete disclosure of pertinent information at the time of the original hearing on each case before the original hearing officer. This will insure that a proper record is established and will eliminate the need for public officials and citizens to engage in repetitive, time-consuming rehearings at subsequent stages of the zoning procedures.

TESTIMONY UNDER OATH

Recommendation 19: Require that all testimony and other statements of fact be given under oath at all hearings held by or on behalf of the City Planning Commission, Office of Zoning Administration and Board of Zoning Appeals.

The 1966 Los Angeles County Grand Jury recommended that: "At any formal hearing wherein the advisability of granting, changing, or modifying zoning is under consideration, both the proponents and opponents shall be placed under oath."

Staff hearing officers have generally indicated their opposition to this proposal on the grounds that it could inhibit the free expression of pertinent information, would unnecessarily delay proceedings and is unnecessary since hearing officers are skilled in distinguishing fact from fiction. On the other hand, many members of the public feel that misleading or untrue testimony is sometimes

allowed to pass without verification. On balance, we conclude that requiring testimony or any other representations of fact under oath would heighten public confidence and at least produce more accurate and thoughtful testimony. Among other jurisdictions, there is no unanimity about the desirability of this requirement, but many planning and zoning bodies do follow this policy and report satisfactory results.

We further believe that oaths should be administered individually, and should be required for all statements of fact whether given in testimony or otherwise.

VERBATIM RECORD

Recommendation 20: Make a verbatim record of the testimony at each hearing and retain such records for three years.

We concur in the suggestion made by many, and which we understand to be the present practice, that there be a complete record (but not necessarily a transcript) of all hearings conducted by or for the City Planning Commission, the Office of Zoning Administration and the Board of Zoning Appeals. These records (tape recordings or stenotype notes) should be retained for at least three years.

FINDINGS IN ZONING CASES

Recommendation 21: Amend the Charter and the Zoning Code to clearly require that specific written findings of fact based upon competent evidence of record, and showing conformance or nonconformance to the required criteria, must be adopted in acting upon all zoning matters other than slight modifications as defined in the Charter and the Zoning Code.

If zoning procedures are to be fair, and sound decisions insured, the reasoning used in proceeding from evidence to decision must be available and subject to examination, comparison and appeal. All too often the written reasons for decisions have been couched in only the broadest terms, offering the possibility at least for special interest objectives to be hidden beneath a cloak of vague platitudes about the general public welfare.

In other sections of this report we are recommending that zone changes must be based upon the General Plan, that specific criteria for conditional uses must be written into the Code and that the Charter requirements for variances be strengthened. These are the vital requirements to insure that each zoning action serves its intended public purpose and that legal authority is not being exceeded. Written findings are needed in each case to relate the requirements to the decision. They serve (1) as a tool of analysis for the decision-maker, (2) as an explanation to the public and (3) as a test by which an appeal body or the courts can examine the validity of the decision. Findings are a key element in making zoning procedures operate as they are meant to operate.

Two recent decisions of the California courts greatly strengthen the importance of proper findings.²⁰ These cases make it clear that when written findings are required they must be correct statements, based on substantial evidence of record, and sufficient to satisfy the criteria for zoning action as established by law. It can now be expected that the courts will examine in detail the reasoning employed in local zoning decisions and will strike down zoning actions involving inadequate or faulty findings.

APPEALS

Recommendation 22: Amend the Zoning Code to standardize appeal procedures for all types of planning and zoning cases, and include the following provisions:

1. Allow a twenty-day period following the original determination for the filing of appeals.
2. Provide that those eligible to file an appeal include an applicant, any person aggrieved, the Director of Planning and the Planning Commission.

²⁰*Cow Hollow Improvement Club v. Board of Permit Appeals*, 245 A.C.A. 160 (District Court of Appeal, hearing denied by California Supreme Court); *Broadway, Laguna, Vallejo Assn., et al v. Board of Permit Appeals*, 66 A.C. 798 (California Supreme Court).

3. The written appeal must show specifically wherein the original findings and determination are not supported by the facts.
4. Appeals to the Board of Zoning Appeals, involving as they do interpretations of the provisions of the Charter and ordinances, are to be considered only upon the record of the original hearing and determination. No new evidence may be introduced. If new evidence is offered the case shall be returned to the agency having original jurisdiction for rehearing and redetermination.
5. Any modification or reversal on appeal must include written reasons detailing wherein the original determination is not supported by the findings of fact, and must set forth specific revised findings.
6. Failure of the appellate body to act within fifty days after filing of an appeal (or longer period when an extension of time is authorized) shall constitute denial of the appeal.

The purpose of appeals is frequently misunderstood. The only reason for conducting appeal proceedings is to correct the possible errors of an agency or office which has been given power to take certain actions—to insure that such an agency continues to operate within its assigned authority and responsibility. It is not the proper function of an appeal agency to duplicate the functions of the agency from which the appeal is made. To do so is wasteful of time and money and opens the door to inconsistency and unfairness between the actions of the two agencies.

In Los Angeles, it is apparent that zoning appeals have sometimes been looked upon by both appellants and City officials as a means of applying alternate sets of policies and standards to particular situations, and not as a check to insure that adopted rules and policies are being followed. If the rules or policies are wrong, they should be changed for everybody by action of a legislative or policy-making body, not for a few by action of an administrative appeals agency.

It is also an abuse of the appeals procedure to use it as a means of bypassing the agency having original jurisdiction rather than as a means of correcting the errors of that agency. Too many zoning cases have been filed and pursued with little or no concern for the adequacy or outcome of the proceeding before the agency having original jurisdiction, on the assumption that what really counts is the attitude of the appellate body.

The basic steps involved in sound appeal procedure are shown in Figure 10.

The first determination by the appeal body is whether or not the original decision-maker had sufficient information upon which to base a decision. If pertinent facts were not disclosed in the original application, investigation and hearing, there has not been a full opportunity for reaching a sound decision in the first instance. In this circumstance the

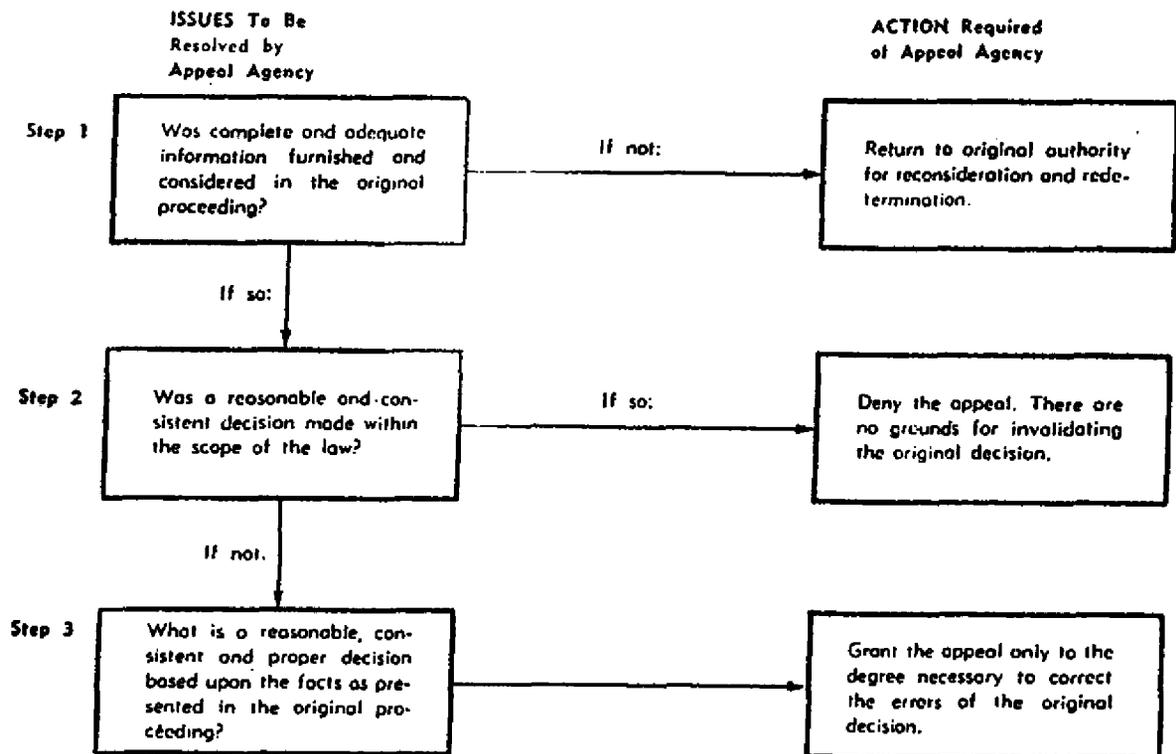


Figure 10. Guide for Recommended Appeal Procedure

original proceeding is incomplete rather than erroneous. Rather than substitute its own judgment based on different information, the appeal body should, in such a situation, return the matter to the original authority for reconsideration in light of the full facts of the case. To do otherwise is to invite the withholding of information simply for the purpose of justifying an appeal—in effect bypassing the agency having original jurisdiction. New time limits should apply when a case is re-

turned for reconsideration. Where rehearing occurs because an appellant failed to provide information which could have been furnished initially, it would be appropriate to require a rehearing fee.

The next question for the appeal body is whether or not the original decision has exceeded the bounds of the law, regardless of whether the appeal body agrees with the decision. For this purpose, the findings of the

original authority must be examined to determine if they demonstrate a suitable relationship between the facts of the case and the conclusions reached. If the decision is found to be reasonable and proper in the circumstances, the appeal body is not justified in substituting its own judgment for that of the original authority.

Only after it has been determined that the original reasoning went beyond the applicable legal requirements is it proper for an appeal agency to apply its own specific reasoning to the case. To assure that the appeal body, in turn, does not go beyond the requirements of law, it must state its own reasoning in the form of written findings which, if necessary, can be reviewed by higher authority—usually the courts.

The key requirement to maintain proper appeal procedure, therefore, is to prohibit the appeal body from considering matters *de novo*, that is, on the basis of new information or arguments. Instead, each appeal should be considered entirely on the basis of the record of the original proceeding. This, of course, requires the keeping of an adequate record, including both the pertinent facts and the reasoning based on the facts, thus emphasizing the importance of written findings as discussed in a previous section of this report.

The second requirement to insure the proper handling of appeals is to require that the reasoning involved in appellate decisions is also fully disclosed through specific written findings. For appeal decisions which modify or reverse previous decisions, there must be two types of findings: first, those showing error in the original determination; and second, those supporting whatever revised decision is made.

FILING OF APPEALS

To justify filing an appeal, there must be a showing that error has been made in the original determination. Since appeals should be considered entirely on the record, and since the burden of proof is on the appellant,

the written appeal should establish the claim of error. The Zoning Code now requires specific showings of error to be stated on the appeal forms for the various types of zoning matters. However, it is found that appeals are often submitted with only the most general statements as to why the initial decision is believed to be in error. As suggested in the discussion concerning the filing of applications, there should be a careful checking of appeal forms before their acceptance. Although the staff of a City agency can be authorized to refuse to accept an improperly filled out appeal, appellants should be encouraged to present their case as specifically and in as much detail as possible.

A present problem, however, is that for variances and conditional uses the appeal must be filed within ten days from the issuance of the original determination. We believe this does not always provide enough time for an appellant to analyze the determination and prepare his appeal in sufficient detail. We recommend a twenty-day filing period for variance and conditional use appeals—the same period as now allowed on zone change appeals.

Finally, concern has been expressed because, for some zoning matters, only "an applicant or any other person aggrieved" is permitted to file an appeal. This wording excludes appeals by persons not directly affected by a zoning action.

It has been suggested that any Councilman be permitted to file an appeal in zoning matters. If this were permitted, a Councilman would be able to file an appeal and then, when it reached the City Council, pass judgment on the appeal. Such a situation would be untenable. However, it is possible that a Zoning Administrator, for example, could take an action contrary to the general plan of a community, yet neither the applicant nor directly affected property owners file an appeal. In order to protect the public interest in such cases, we propose that the Planning Commission and the Planning Director be empowered to cause an appeal to be presented to the Board of Zoning Appeals.

TRANSFERS OF JURISDICTION

Recommendation 23: Amend the Zoning Code to standardize the procedure for transfer of jurisdiction to an appellate body when the original body fails to act, and include the following provisions:

1. Failure of the original authority to act within the fifty-day time limit (or longer period when an extension of time is authorized) constitutes neither approval nor denial but permits transfer upon written request of the applicant. The appellate body then assumes all responsibilities and duties imposed upon the original authority, and must act within fifty days of transfer of jurisdiction (or longer period when extended by mutual consent).
2. Upon transfer of jurisdiction, public notification shall be made and a hearing held in the same manner as required for an original hearing.

The provision for a transfer of jurisdiction is intended to enforce the timely completion of proceedings and decisions by the agency having original jurisdiction. If a determination is not made within a specified time limit, then the applicant may have the case transferred to the appellate body, and this body then acts in place of the original authority. This provision is desirable to insure timely action but it should not be abused, as has happened occasionally, by permitting the applicant to select his forum.

Additional authority should be provided for the extension of time limits on zoning proceedings in proper cases. In normal cases the present fifty-day time limit has proved sufficient for staff investigation, notification, hearing, report and decision. Present provisions should be retained which permit the

Zoning Administrator to extend the time when more information is required. In major cases, the time is often extended by mutual consent of the applicant and the agency having jurisdiction. In unusual cases, however, legal opinion or special research may be required even though an applicant does not consent to delay for such purposes. Under these circumstances, the agency having jurisdiction should not be forced either to make a decision based on inadequate information or to lose jurisdiction by transfer to the appeal agency. A maximum time limit for this type of delay should be provided, however, together with the criteria to be met to justify such a delay.

If the other recommendations of this chapter are followed concerning requirements about the providing of full information during initial proceedings, it is unlikely that a transfer of jurisdiction could occur except when a decision-making agency is truly negligent in reaching a decision. In other cases it would be possible to stop the running of time limits until needed information is furnished, thus avoiding an unwarranted transfer of jurisdiction.

In those few cases where a transfer of jurisdiction does occur, there should be assurance of the same degree of fact-finding and analysis as would be the case under the original authority. To accomplish this the Code should make it clear that under a transfer, the appellate body must assume all responsibilities and adhere to the procedures which would have been followed by the original authority. The City Planning Department should be required to provide staff services for a transferred case, including investigation, report and recommendations in the same manner as would have been provided if the case had not been transferred.



CHAPTER 4

RESOLVING THE PUBLIC INTEREST— A DEFINITION OF ROLES

GENERAL OBJECTIVE

To organize and define the roles of the various officials involved in the planning and zoning process in a way that leads to full recognition of the public interest.

In the previous chapters of this report, we have been concerned primarily with the legally established specifications for city planning and zoning practice. In this chapter, we turn to more intangible factors involved in public decision-making. Government should serve the public interest, but the public interest is an elusive concept. However, by bringing together people who represent the public in different ways, with different approaches and points of view, our governmental system seeks to guarantee the best possible determination of the public interest. This system is often described as consisting of checks and balances.

The possible abuses which have given rise to the work of this Committee are due to a partial breakdown in the checks and balances which had been intended to insure that planning and zoning practices serve the broad public interest. The system was designed to provide a set of distinctive, but interrelated, official roles which would prevent domination of the system by any one interest group and encourage exposure of and counteract any abuse. But we find that recent practice has tended toward an overlapping of the roles played by elected officials, appointed board

members and professional staff. This has resulted, in some cases, in an inadequate resolution of the public interest and a decrease in governmental efficiency.

The original concept, as we interpret it, was to have essentially a three-way balance among the political system (represented by the City Council and the Mayor), a non-political "civic conscience" (reflected by the City Planning Commission and Board of Zoning Appeals), and a professional-technical-administrative staff (the City Planning Department with responsibility focused on the Director of Planning and the Chief Zoning Administrator). This arrangement was in line with the nationwide growth of the concept of a planning commission as a group of knowledgeable civic leaders interested in the long-term development of their city and bound by neither partisan political considerations nor an overly technical viewpoint which might not be fully appreciative of community values and attitudes.

The basic relationship among the Mayor, City Council and City Commissions is a fundamental issue in Los Angeles City government because of the unique and extensive use of commissions to provide either management

control or policy guidance for most City departments. It is beyond the scope of this Committee to deal with this broad question; undoubtedly, it is a matter currently under consideration by the Los Angeles City Charter Commission. However, with respect to planning, we believe the organizational structure, with powers revised in accordance with the various recommendations of this report, can be effective if used properly. In particular, the Planning Commission serves in a unique screening capacity which we believe should be retained. This commission, unlike certain others, is not the administrative head of the department.

Figure 11 shows the present organizational relationships of the City officials and agencies directly involved with planning and zoning, as defined by the City Charter and ordinances. Although the Charter provisions affecting organization have been changed somewhat over the years, the current pattern still reflects the basic three-part relationship of elected officials, citizen appointees, and civil service staff as envisioned in the original provisions. The recommendations of this chapter are intended to strengthen these officers and agencies in assuming and maintaining their proper roles within the existing structure.

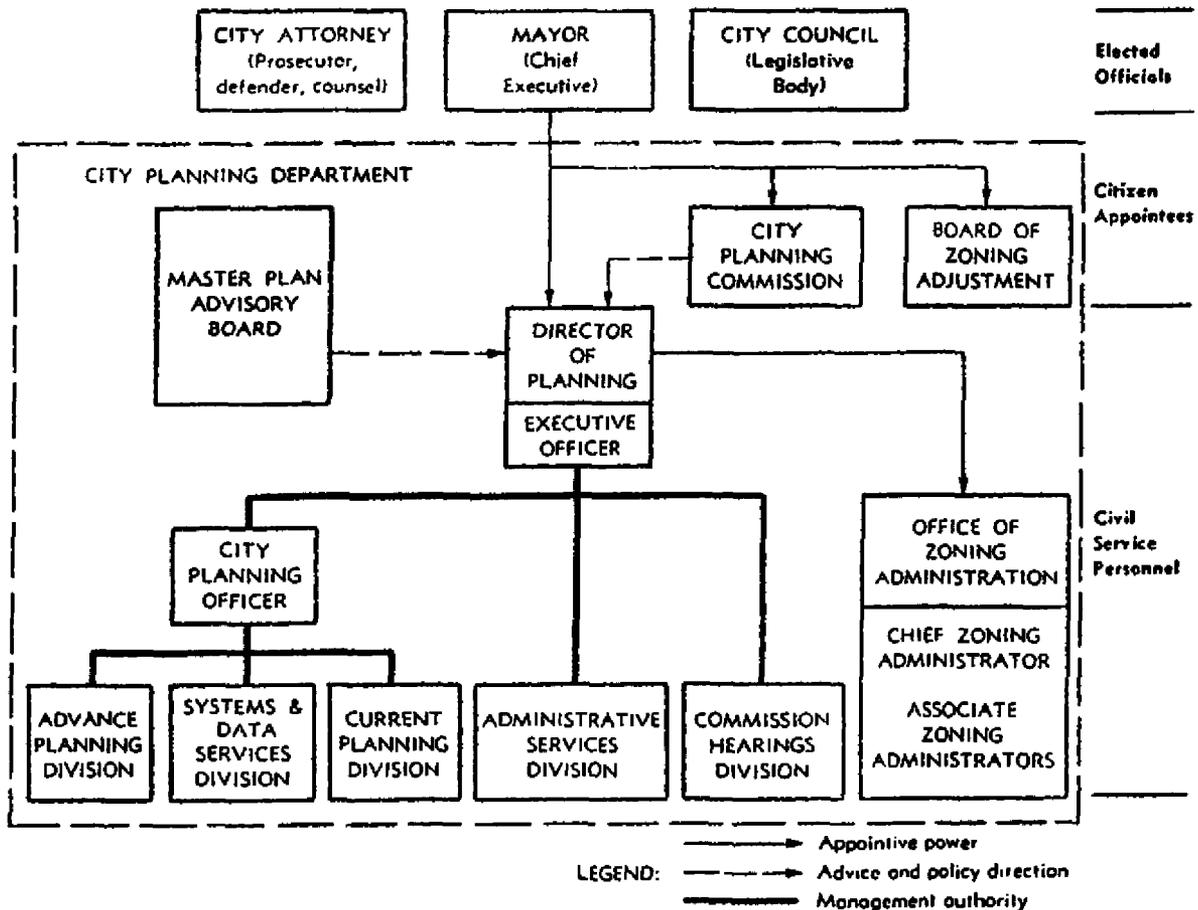


Figure 11. Organization Chart — City Agencies With Responsibility for Planning and Zoning

CITY PLANNING COMMISSION AND BOARD OF ZONING APPEALS

The Planning Commission should be a high caliber advisory agency with an independence of action from both the political arena and the bureaucracy. In this role, it can serve as a balancing influence and a source of both continuity and innovation. We believe the Commission should not assume legislative authority in any manner, nor should it act as a board of management; it should be an advisor to both legislators and the Director.

As we have pointed out in Chapter 2, the Board of Zoning Appeals should play a strictly quasi-judicial role, and this too requires independence from both political and bureaucratic influences; the law alone should be the Board's primary guide.

APPOINTMENTS

Recommendation 24: In making and confirming appointments to the City Planning Commission and the Board of Zoning Appeals, the Mayor and the City Council must assume full and equal responsibility for insuring that persons of the highest integrity, competence and interest in civic and public affairs are selected.

Because of their broad influence on both public and private land development, the appointive positions on both the City Planning Commission and the Board of Zoning Appeals have special responsibility, sensitivity and burdens. We consider it absolutely essential that people of the highest integrity, competence and civic interest be appointed to those positions. We believe that the basic personal qualifications required include:

- Civic mindedness, understanding and leadership.
- A deep interest in planning for orderly community development.
- Skill in analyzing complex situations involving social, economic and physical elements and—especially for the Board of Zoning Appeals—judicial temperament and skill.
- No substantial conflicts of interest.
- Time available to meet the burdens of the office.

We do not believe any foolproof system exists for insuring that appointees meet these criteria. In the first instance, the responsibility for appointments rests with the Mayor, but we believe the Council must accept equal responsibility for the quality of appointments by conscientiously exercising its power to confirm only after careful inquiry.

ORIENTATION

Recommendation 25: Furnish new appointees with a written manual covering the nature of the planning and zoning functions, the role of the Planning Commission and Board of Zoning Appeals, and the legal, policy and ethical limitations within which they must operate. (The Committee will make more specific recommendations on this in a subsequent report.)

Our understanding is that the City Planning Department provides a briefing for new appointees and furnishes them with various official documents and explanatory material relating to their duties. However, we feel it would be valuable for each commissioner and board member to have a well organized and indexed volume for ready reference, bringing together in succinct form all significant information on laws, principles, policies and practices relating to their activities. Such a document might best be maintained in loose-leaf form for continuous updating.

In addition, advantage should be taken of outside organizations such as universities and associations of government officials which might organize meetings or seminars for exchange of information concerning practices in other jurisdictions and innovations in the field of planning, zoning and public administration. The City should encourage such participation.

POLICY REVIEWS

Recommendation 26: The Director of Planning should arrange periodic meetings with members of the Planning Commission, the Board of Zoning Appeals, the City Attorney, Zoning Administrators and key staff members to review over-all operations, consider basic policies, examine the relationship of zoning actions to such policies and reevaluate established procedures and policies in the light of advancements elsewhere.

In order for any organization to continue to achieve its basic objectives, there must be a means of monitoring results, evaluating overall effectiveness and making adjustments in policy when necessary. It is our understanding that, in spite of a steady stream of zoning and planning cases to consider, the Planning Commission, Board of Zoning Adjustment and Planning Department staff occasionally conduct policy review sessions. We commend this practice and urge its continuance and strengthening on a regularly scheduled basis.

One important part of such discussions should be periodic explanations by the City Attorney of significant court decisions in California and other states. In addition, information on new techniques in planning and zoning should be presented and discussed. Finally, there should be an exchange of attitudes and ideas among the agencies responsible for planning and zoning in Los Angeles, directed toward definition of their respective roles and effective coordination of the City's planning and zoning processes.

TERMS OF OFFICE

Recommendation 27: Amend the Charter to strengthen the system of overlapping terms of service on the City Planning Commission and the Board of Zoning Appeals as intended by the City Charter. This should be accomplished by providing that:

1. Appointments can only be made when an office becomes vacant.
2. Vacancy in an office occurs only upon:
 - a. Expiration of the term.
 - b. Removal accomplished by either:
 - 1) Request of the Mayor approved by simple majority vote of the Council.
 - 2) On initiative of the Council by a two-thirds vote. If disapproved by the Mayor, a four-fifths vote required to sustain removal.
 - c. By a commissioner or board member filing a resignation with the City Clerk.
3. Appointments will be deemed approved if not acted upon by the Council within sixty days.
4. In the event the Mayor does not make an appointment within sixty days after a vacancy in an office occurs, the President of the City Council shall make the appointment, subject to confirmation by the Council as in the case of appointment by the Mayor.

The clear intent of the City Charter is to have overlapping terms of office on City commissions and the Board of Zoning Appeals.³⁰ The purpose of overlapping terms is to guarantee continuity of policy and experience on these boards. We firmly believe this is essential to protect the independent advisory role of the Planning Commission and a consistent quasi-judicial role for the Board of Zoning Appeals.

The principal of continuity of policy and experience is of special and vital importance in planning and zoning since the aim is to develop and implement long-term plans for city development. The process of development and redevelopment is continuous and largely influenced by what has already happened or by what is firmly projected. If sudden and substantial changes are made in the plans, programs and standards of the City by new appointees, chaos could result. The knowledge and understanding of a commissioner, which are principally the products of experience, represent valuable assets to the City. In the event of complete and sudden change in the personnel of the Commission, a void in the availability of this kind of background will develop, and the new Commission will be forced to operate for a period of time without an understanding of what and how things were done in the past.

Unfortunately the City Charter, although clear as to intent, does not provide adequate restrictions against violation of this principle. Commissioners can be replaced at any time simply by appointing someone else to their office; also, they can be continued after their term of office expires and thus made subject to replacement at any time. In some cases, resignations have been secured and held for use at any time. Such practices hardly contribute to the exercise of independent judgment on the part of appointees.

In 1961 as in 1953, a new Mayor replaced most of the members of the Planning Commission and the Board of Appeals. A majority of City commissioners was also replaced in 1939 after a new Mayor was elected in a recall campaign. Since 1961, the average tenure on these two boards has been 2.5 years, compared with 4.3 years for the period 1940 to 1961 (see Figures 12 and 13).

³⁰Los Angeles City Charter, Sections 72 and 98½, provides for five-year terms of office with one term expiring each year.

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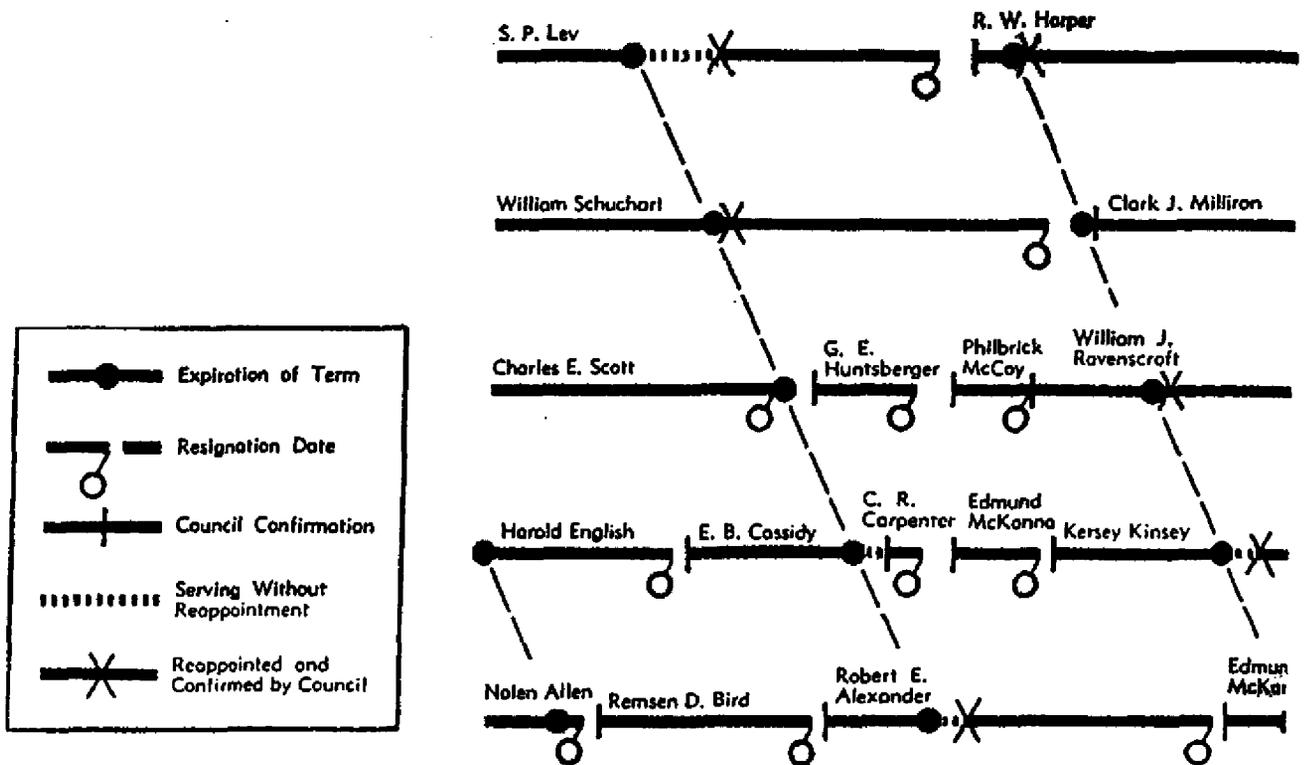


Figure 12. Tenure of Members — City Planning Commission (1940 to 1968)

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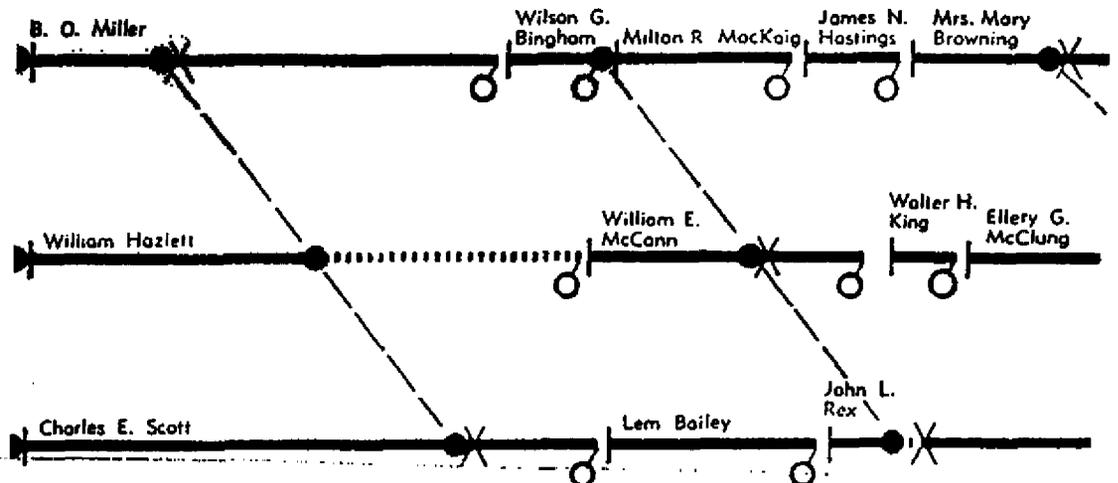
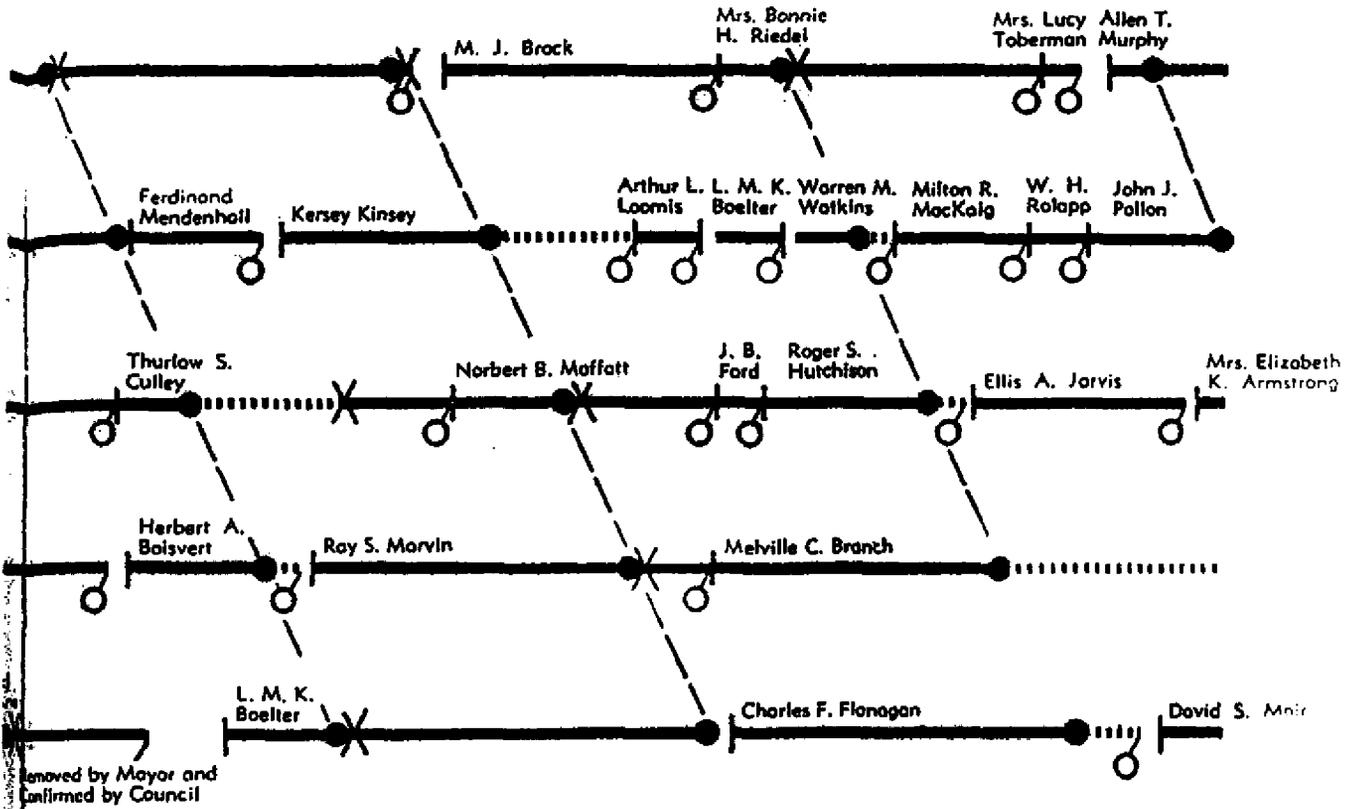
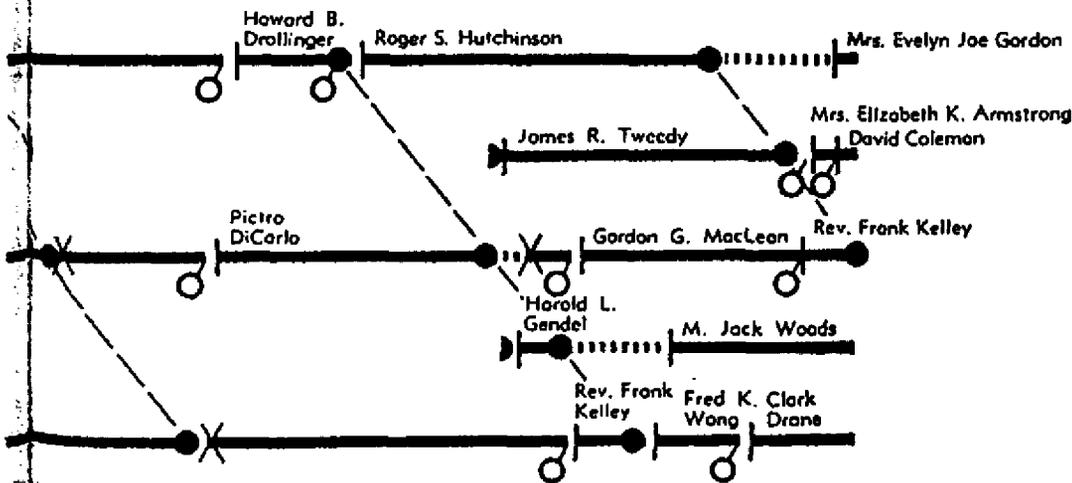


Figure 13. Tenure — Board of Zoning Appeals (1941 to 1963); Board of Zoning Adjustment (1963 to 1968)

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7/57 7/58 7/59 7/60 7/61 7/62 7/63 7/64 7/65 7/66 7/67 7/68



We believe it is essential to sound and effective planning and zoning to make the intent of the Charter mandatory in regard to overlapping service on the City Planning Commission and Board of Zoning Appeals. This can be accomplished by requiring that (1) appointments or reappointments be made at the beginning of each term of office on the Commission or Board, (2) removal from office can occur only with the consent of the City Council (which body may require a showing of substantial reason such as improper conduct in office), and (3) resignations become effective only when voluntarily and publicly submitted.

Under Council File No. 136,635, a Charter amendment similar to our recommendations is currently being considered. We urge the inclusion of our specific proposals in this Charter amendment.

COUNCIL ACTION

Recommendation 28: Provide by Charter or ordinance that, for planning and zoning matters where time limits are not otherwise provided, each such matter must appear on the Council agenda each ninety days from the date of transmittal to the Council, until Council action is completed.

In all legislative matters and most policy issues, the final resolution of the public interest should and does occur on the floor of the City Council. Professional analysis is provided by City staff; independent civic advice is offered by City commissions and others; but it is the ultimate responsibility of the elected representatives to debate the issues and reach a decision. Two principles are well recognized as basic to the legislative process: the minority should be heard, but the majority should rule.

Because Councilmen are elected by districts, the Committee finds it important to emphasize the responsibility of each Councilman for the City as a whole. Practices which permit a Councilman individually to control decisions affecting his district is in effect a form of minority rule and should be eliminated. We do not object to any Council procedures allowing reasonable consideration, but we do propose that the practices which permit

one or two Councilmen to prevent action indefinitely without support by the majority should be changed.

We believe that in most instances the Council acts as expeditiously as possible on planning and zoning matters. But apparently on rare occasions action has been unreasonably delayed or prevented by holding a file in Committee or in a Councilman's office.

It should be noted that time limits are provided by Charter and ordinance for staff and Commission action on most planning and zoning matters. It is perhaps unreasonable to impose time limits for final legislative action on these same matters, but at least there should be the opportunity for the majority to act within a reasonable time. If the Council has failed to take action on a planning or zoning matter within ninety days of submission to the Council, the Council as a whole should be aware of the delay and the reasons therefor, and if the majority so decides, the Council as a whole should be able to act upon the matter. This purpose would be accomplished by the above recommendation.

MAYOR'S VETO

Recommendation 29: Identify in the Charter and Code those matters that are legislative in character (as distinguished from administrative and quasi-judicial matters) and therefore to be adopted by ordinance with the right of veto by the Mayor.

As the chief city-wide elected official, the Mayor properly has an important role to play in legislative and policy-making matters. Several of the Committee's recommendations are intended to strengthen the role of the Mayor by assuring that he does in fact have veto power over legislative and policy actions, as intended by the City Charter. In zoning matters, the major change would be the criteria and circumstances under which conditional uses could be approved. Thus, the Mayor would have veto power over the Code provisions and subsequent amendments governing these land uses.²¹

²¹See Chapter 2 re: Conditional Uses, pp 30-33, and Planned Developments, p 34.

In addition, the small group of unusual but significant land uses which we refer to as unclassifiable would be individually authorized by ordinance³² and thus subject to veto. These unclassifiable uses, as well as the more significant conditional uses, are now subject only to approval by the Planning Commission, unless appealed to the Council, in which case action is by resolution. The Mayor has no veto power over Council resolutions.

In Chapter 1 we emphasized the importance of the General Plan as a major policy document of the City. In view of its importance, the Mayor should have the same degree of authority and responsibility for the General Plan as for legislative matters. As explained in Chapter 1, the General Plan is not suitable for adoption by ordinance because it is general in character and serves as a guide rather than as a set of definite regulations. Therefore, we have recommended that a copy of any General Plan matter should be submitted to the Mayor prior to Council action, and a two-thirds vote of the Council should be required to override any recommendation of the Mayor concerning the General Plan.³³

The various recommendations referred to in this section will carry out the intent of Grand Jury Recommendation 3 which proposed that the Mayor have veto power over those actions which in effect constitute reclassification of property.

³²See Chapter 2 re: Unclassifiable Uses, pp 33-34.

³³See Chapter 1 re: General Plan Procedure, pp 17-21.

OVERRIDING OF RECOMMENDATIONS BY CITY COUNCIL

The Charter presently requires the referral of all zoning matters, as well as many other matters relating to planning to the City Planning Commission before the Council may act. A two-thirds vote of the Council is required to act over the disapproval of the Commission, and, if the Mayor vetoes this action, a three-fourths vote of the Council is required to override. In general, these provisions are designed to give some weight and balance to the longer range concerns of the Commission as against the shorter range pressures often placed upon the Council. We favor retention of these present provisions.

Grand Jury Recommendation 8 calls for requiring a four-fifths vote of the City Council to override a recommendation of the Planning Commission which is in accordance with the General Plan and substantially the same as the recommendation of the City Planning Department. This procedure would present practical difficulties in determining whether or not the necessary degree of conformance to the General Plan exists and whether or not there is sufficient agreement between the Commission and the Department. We believe the present requirements provide essentially the same degree of limitation on overriding actions of the Council, without the uncertainties inherent in the Grand Jury proposal.

CHAPTER 5 PROTECTING THE PUBLIC INTEREST

GENERAL OBJECTIVE

To insure that the broad public interest is fully recognized, and to insure that official acts are not improperly influenced by special or private interests.

The basic protection against misuse of governmental power lies in public exposure. All phases of government decision-making should be subject to public scrutiny. At the same time, it must be recognized that making an unreasonable fetish of public exposure can result in a virtual stalemate of governmental processes through protracted controversy and resulting discouragement of positive and imaginative proposals for action.

Planning and zoning matters are often complex in terms of both the factors involved and the objectives sought, thus making it difficult for the general public to understand the real issues, and easy for special interests to operate behind a smokescreen of attractive pictures and high-sounding cliches.

PUBLIC INFORMATION

Recommendation 30: Strengthen the City's program of keeping the general public adequately informed as to the purposes, requirements and procedures of sound planning and zoning and as to the activities and decisions of City government in planning and zoning matters. This program should include the following:

1. Make available to the public simple and clear explanations of adopted objectives, policies, plans, regulations and procedures.
2. Place capable personnel in public contact positions and provide adequate training for such personnel.
3. Provide adequate records and staff at each branch office of the City Planning Department.
4. Prepare a statement to be available for use at public hearings and meetings which explains clearly and simply the procedures which will be followed in the matters to be considered.

Recommendation 2 of the Grand Jury urged that ample information be provided to the public through knowledgeable governmental employees. The Jury was particularly concerned that individual property owners be able to seek zoning changes without the necessity of employing specialists to represent them at great additional cost. At the minimum, the Jury suggested that advice should be provided on applicable standards and procedures. We concur in this view and would expand it to include improving the availability of information to all interested citizens, not just zoning applicants.

Everything possible should be done to assist the general public in understanding the purposes, procedures and requirements of sound city planning, including zoning, and to provide full factual and impartial information on the City's activities and decisions in this field so that sound actions will receive support and undesirable or improper actions will stir public reaction. Voluntary citizen organizations and the news media should be encouraged to assist in this effort, but the City must cooperate by making information readily available. The City Planning Department should be charged with maintaining a public information program for this purpose and should be provided with the necessary budgetary support.

Too often citizens are unaware of the plans and programs affecting their neighborhood or community, and they react with shock, apathy, cynicism or hostility when changes occur. None of these reactions is likely to produce improvements in the situation. The citizen interested in constructive action should be aware of the General Plan as it relates to his area and of the zoning pattern, capital improvement program and other measures. He should know where he may conveniently obtain further information and should know of the procedures available either to seek desired changes or to prevent unwanted changes. A program to serve these purposes need not be elaborate or expensive, but it should be a continuous effort extending into all communities within the City.

CODE OF ETHICS

Recommendation 31: The Committee recommends that the City Council adopt a code of ethics for City officials and employees involved in planning and zoning matters. Prior to such action the Council should undertake further study of this broad area including consideration of recent constructive developments elsewhere.

The problems of maintaining high ethical standards in planning and zoning matters become particularly acute because of the large sums of money or property values which may be involved.

Although a code of ethics for planning officials and employees might be helpful, we do not believe any such code can by itself be relied upon to prevent or disclose improper conduct. In fact, such a code may create a false sense of security. Therefore, the Committee places primary emphasis on:

1. Establishing and maintaining clearly drawn laws and rules of procedure, understandable by the widest segment of the citizenry, so that incorrect application of the law or improper conduct becomes evident. Our various recommendations for revision of the Charter and Municipal Code should be applied in a manner responsive to this need.

2. The responsibility of the Mayor and Councilmen to be concerned with obtaining people of the highest quality of competence and integrity to serve on commissions and boards. In this regard, we believe that more complete background information should be available to the City Council when confirmations of appointments are considered.

If all of the recommendations are adopted and implemented, they will maintain a system of checks and balances among the various agencies and branches of government so that abuses are corrected. The Mayor, the City Council through its Governmental Efficiency Committee, the various officers, commissions and boards of the City and the Grand Jury all have roles to play.

After recognizing the importance of the above factors, it may be useful to develop a code of ethics and the means of maintaining it. We endorse the principle of establishing such a code, but any such code and enforcement system should be much broader in scope than planning and zoning activities alone.

We note that the City Planning Commission has included 12 principles of behavior and ethics in its statement of "General Operating Policies and Practices" which was adopted on October 19, 1967. These principles include (1) handling conflict of interest situations in accordance with present Charter provisions, (2) prohibiting private communications with parties interested in planning and zoning cases, (3) prohibiting the acceptance of gifts and (4) avoiding any employment or business relationships in conflict with their official

duties. We commend the Commission for setting forth these principles. However, we believe this statement should be considered only as an interim step, pending the adoption of a more specific code of ethics applicable to all officials involved with planning and zoning matters and consistent with an over-all code of ethics for City officials and employees.

In this connection, we have noted recent actions by the U.S. Senate and the California Legislature; proposals made for Fairfax County, Virginia; the recommendations of the American Society of Planning Officials; and the system used in New York City. All of these and other constructive suggestions to encourage ethical conduct should be considered in developing a code of ethics for Los Angeles.

CONFLICTS OF INTEREST

Recommendation 32: Require by ordinance and amplification of the Charter that prior to consideration of any planning or zoning matter, each member of the City Planning Commission or Board of Zoning Appeals who has a private or personal interest in the matter must so state. If at any time during the consideration of a matter it becomes evident to a member that a conflict exists, he shall at that time so indicate. (The Committee will submit additional recommendations concerning conflict of interest in a subsequent report.)

The City Charter clearly intends that City officials must act solely in the public interest and therefore must not act on matters in which they have a personal or private interest.³⁴ The moral obligation is clear. However, establishing a suitable legal definition and a means of enforcing it are difficult.

The present Charter definition of conflict of interest is merely a reference to applicable State laws. The State law prohibitions have until recently related primarily to contracts and thus did not pertain to most planning and zoning matters.³⁵ However, apart from these provisions relating to interest in contracts, a recent State act, which became effective since

our Committee study began, provides that city councilmen and board and commission members are now required to disclose any "direct personal financial interest" in any matter coming before them in their official capacity.³⁶ Failure to make a required disclosure constitutes misconduct in office which can result in removal.

Under Section 28.1 of the Charter, the City Attorney is required to render opinions, when requested, as to whether a commissioner, board member, employee or other officer of the City, except a member of the Council, has a prohibited interest in a particular matter. When such interest is found to exist, the matter must be referred to the Board of Referred Powers. At present, the Board of Referred Powers consists of five Councilmen. In planning and zoning matters, we question the logic of the present Charter provision that disqualification of one member of a board in effect automatically disqualifies all members by forcing transfer of the matter to the Board of Referred Powers.

Also, in the present Charter and State law provisions, there is no express prohibition of indirect conflicts which may arise through third party connections or friendships. We therefore feel that a satisfactory and complete definition of conflict of interest should be developed and incorporated into the City Charter.

In applying conflict rules to City officials, a system of disclosure which protects both the privacy of the individual and the public interest is needed. With respect to zoning matters, we believe this can best be accomplished by requiring each Commission or Board member, before becoming involved in each matter, to consider whether he has any conflict of interest, and if so to declare that fact. This would be a more comprehensive and effective disclosure procedure than only the reporting of real estate holdings each six months as contained in Recommendation 4 of the Grand Jury. We have not included the members of the City Council within our recommendation because the disclosure rules for Councilman must extend to many matters beyond the scope

³⁴Los Angeles City Charter, Sections 28 and 28.1.

³⁵California Government Code, Sections 1090, 1091.1, 36525 and 36526.

³⁶California Government Code, Section 1120.

of our study, limited as it is to planning and zoning matters.

In our consideration of conflict of interest, we have carefully reviewed the report of the City Attorney relative to the Charter provisions and present State law.³⁷ We are aware that our Recommendation 32 does not involve any basic change from present requirements. However, it is intended to accomplish a codification of the State law and Charter rules for disclosure of conflicts by members of the Planning Commission and Board of Zoning Appeals. We are giving further consideration to the definition of conflicts, the circumstances under which disqualification should occur and other related matters. We plan to report on this at a future date.

PRIVATE COMMUNICATIONS

Recommendation 33: Enact an ordinance requiring that communications between interested parties and members of the City Planning Commission or Board of Zoning Appeals concerning any matter pending before the Commission or Board shall be limited to oral statements in open public meeting and written statements addressed to the Commission or Board as a whole. Engaging in private oral or written communications concerning such matters shall constitute a misdemeanor by all of the parties involved and misconduct in office by City officials.

In California, the Ralph M. Brown Act, adopted in 1953, has established the principle that members of public bodies must not reach decisions in secret.³⁸ This act extends to the Planning Commissioners and members of the Board of Zoning Appeals. Private communications between interested parties and the Board or Commission members on matters under consideration, other than in open public meetings, should also be prohibited.

³⁷Roger Arnebergh, City Attorney, "Report Re: Effect of Assembly Bill 2075 (Chapter 1087, Statutes of 1967) on Actions of Councils, Boards and Commissions," Report No. 6, October 20, 1967. This report deals with the effect of California Government Code, Section 1120, in relation to the City Charter and other provisions of State law.

³⁸California Government Code, Sections 54950-54960.

If a prohibited communication does occur, it should be incumbent on the Commission or Board member to disclose immediately and fully such fact and the nature of the communication. Failure to make such disclosure should constitute misconduct in office which can result in removal.

It is possible that a Commission or Board member could be involuntarily drawn into prohibited communication either through a personal letter or by being engaged in conversation before the subject of discussion becomes evident. If, because of such a contact, the member were required to disqualify himself from voting, this requirement could conceivably be used as a means of either eliminating adverse votes on a matter or at least preventing action. Therefore, we suggest that, in the event a prohibited communication occurs which is involuntary on the part of a Commission or Board member, full disclosure must be made, but thereafter the member would have the option of either disqualifying himself or voting against the interest of the party making the approach.

Our recommendation differs somewhat from Recommendation 5 of the Grand Jury which would allow discussions in governmental offices as well as in public meetings. With respect to Board and Commission members, we believe that, in order to protect the non-political character of their functions, all members should receive the same information and all such information should be a matter of public record. Therefore, private contacts with these appointed officials, even in governmental offices, should be prohibited.

Councilmen and the Mayor, on the other hand, as elected representatives, should have the maximum accessibility to their constituents. Therefore, we do not believe it would be feasible to restrict their communications beyond the provisions of the Brown Act. However, under our recommendation, Councilmen and representatives of the Mayor's office would be prohibited from private communications with members of the Planning Commission and the Board of Zoning Appeals in the same manner as other interested parties would be precluded from such private contacts concerning planning and zoning matters under consideration.

Furthermore, it should be noted that the import of other recommendations of our report is for the Council to be concerned with city-wide planning policy and zoning legislation, but for determinations concerning individual property to be left to the administrative and quasi-judicial agencies.

FIELD INSPECTIONS — BOARD OF ZONING APPEALS

Recommendation 34: With respect to the Board of Zoning Appeals, field inspections by its members should be made only as an adjourned meeting of the Board and in the company of representatives of both sides of the issue. Findings of fact based upon inspections must be on the basis of such inspections by the Board as a whole.

Under our recommendations in Chapters 2 and 3, the Board of Zoning Appeals would be limited to considering appealed cases on the basis of the record made before a Zoning Administrator. The Board would not consider these cases *de novo* and therefore would not take additional evidence except in those cases where a Zoning Administrator fails to act within the designated time limit. If the Board were to accept a field inspection report from one of its members as a basis for its decision, it would in effect be receiving additional evidence. On the other hand, if the Board as a whole makes a field inspection as part of its announced and scheduled public consideration of the matter, it may be considered as part of the process of examining the record of the case. Thus, this recommendation is intended to protect the proper functioning of the Board.

CAMPAIGN CONTRIBUTIONS

Recommendation 35: Amend the Charter and enact municipal legislation to supplement State law concerning campaign contributions, including consideration of gifts and gratuities, which may affect planning and zoning, with a view to requiring itemized reports from all elected officials and candidates for elective office listing donors and amounts from each donor. Such reporting should include indirect contributions handled through campaign committees, campaign management firms or other individuals or organizations. (Further details on

this subject are to be developed in a subsequent Committee report.)

State law now controls campaign contributions to local officials to the extent of requiring reporting of the **total amount directly** received by the candidate.³⁰ We find that this is entirely inadequate since no itemization of amounts by each donor is required, and frequently no reporting is made concerning funds received by independent committees or other organizations. The management of campaigns by professional firms is a practice now commonly accepted but apparently not contemplated when the present laws were written.³¹

We believe that a candidate should be held publicly accountable for all campaign contributions on his behalf. In order to enforce this accountability, it is essential that all firms, citizens committees and any others receiving funds for campaign purposes be required by law to furnish the necessary itemized financial reports to the candidate.

Although it may be argued that State law has preempted the field of control over campaign contributions, we feel that municipal regulations to supplement State law would be justified. We therefore suggest drafting a Charter amendment and an ordinance which would make financial reporting of campaign contributions fully effective.

Recommendation 7 of the 1966 Grand Jury proposed that in connection with each zoning case the applicant be required to file an affidavit listing any campaign contributions made or promised to any elected official who may vote on the application. We believe our Recommendation 35 will provide a more practical and comprehensive approach to campaign reporting. If our recommendation is carried out it should provide an adequate means of revealing contributions from zoning applicants. It should be noted that the "lobbyist" registration ordinance now requires persons covered by Municipal Code Section 48.06 to maintain certain financial records.³²

³⁰California Election Code, Sections 11503 and 11560.

³¹See Herbert M. Baus and William M. Ross, *Politics Bottle Plan* (New York: The Macmillan Company, 1968).

³²Los Angeles Municipal Code, Section 48.06 (Ordinance No. 134,571).

GRAND JURIES

Recommendation 36: The Committee recommends that the Mayor and Council request the State Legislature to expand the powers of grand juries to permit investigation of municipal planning and zoning matters on their own initiative.

Under the existing law, a county grand jury does not have authority to investigate city government operations, including planning and zoning matters, unless a request is made by the city or a criminal matter is involved. Because of the particularly critical and sensitive nature of planning and zoning activities, we believe a grand jury should have authority to investigate such matters on its

own initiative, at both the county and city levels, whether or not there is evidence of criminal violations.

In Los Angeles County there is also a serious problem because of the heavy workload imposed upon the Grand Jury. At present, a single jury is charged with investigation of criminal allegations throughout the County as well as reviewing the manifold operations of the County government for soundness and effectiveness. To improve surveillance of municipal planning and zoning activities, as well as to alleviate the over-all workload problem, we support the recommendation of the District Attorney for State legislation to establish an additional grand jury in Los Angeles County.

CHAPTER 6

CITIZENS COMMITTEE RESPONSES TO GRAND JURY RECOMMENDATIONS

GENERAL OBJECTIVE

To respond to the specific recommendations contained in the zoning report of the 1966 Los Angeles County Grand Jury.

In addition to proposing an independent, in-depth study of zoning in Los Angeles, such as has now been made by this Citizens Committee, the 1966 County Grand Jury made eight specific recommendations. In general, we believe our report deals with the basic problems which underlie the concerns of the Grand Jury, although our recommendations differ in some particulars. In this chapter, we summarize the Committee recommendations corresponding to each of the Grand Jury recommendations. The complete zoning report of the Grand Jury is contained in Appendix B. The numbered sections below correspond to the numbering of the Grand Jury recommendations while the recommendation numbers in parentheses refer to the recommendations contained in Chapters 1 through 5 of this Citizens Committee report.

1. **Professional Representatives.** The Grand Jury proposed that professional representation of zoning applicants be regulated by registration of such representatives, establishment of minimum ethical standards and public disclosure of the services performed and for whom. Subsequently, the Council has enacted a "lobbyist" registration ordinance.¹²

¹²Los Angeles Municipal Code, Sections 48.01-48.09 (Ordinance No. 134,571).

We have not ignored the problems connected with professional advocates in zoning cases. However, since the City Council has enacted rather comprehensive legislation to regulate these activities, we feel it would serve no useful purpose to make further recommendations at this time. After a reasonable period of experience with the new "lobbyist" ordinance, we suggest a review of this subject be undertaken.

2. **Public Information.** The Grand Jury suggested that ample public information on zoning standards and procedures should be available through governmental employees so that there would be little need for zoning applicants to employ professional representatives.

We concur and recommend that the City strengthen its public information program relative to planning and zoning through publications, personnel training, branch office operations, and printed explanations of public hearing procedures (Recommendation 30).

3. **Veto Power.** The Grand Jury recommended that all conditional use permits and rulings of the Board of Zoning Adjustment be subject to appeal to the City Council and possible veto by the Mayor.

We recommend that these individual administrative and quasi-judicial matters **not** be acted upon by the legislative body, but that the Mayor and Council exercise more effective legislative and policy control over these actions through improvements in the Zoning Code and the General Plan (Recommendations 2, 7, 8, 9, 13, 14, 21 and 29).

4. **Conflict of Interest.** The Grand Jury recommended that members of the Council, Planning Commission and Board of Zoning Adjustment file confidential reports of their real estate holdings every six months.

We recommend that Commission and Board members be required by ordinance to declare conflicts of interest, including real estate holdings, before considering each planning or zoning matter. State legislation, which has become effective since the beginning of our study, broadens the scope of conflicts which must be declared by local officials. In view of the report of the City Attorney on this legislation,¹³ we feel that no further recommendation is necessary at this time. However, in a subsequent report, we intend to submit further recommendations concerning indirect conflicts which may not be covered under the new State law (Recommendation 32).

5. **Private Communications.** The Grand Jury recommended that the Brown Act be extended to prohibit discussion of zone changes with Councilmen or Planning Commissioners except in public meetings or regular governmental offices.

We recommend a City ordinance prohibiting any private oral or written communication between interested parties and Planning Commission or Board of Zoning Appeals members concerning matters under consideration. We have not included Councilmen within this recommendation because, as elected representatives, we believe their position requires maximum accessibility to their constituents. However, under our recommendation, Councilmen would be prohibited from private communication with members of the Planning Commission and Board of Appeals in the same

manner as other interested parties would be precluded from such private contacts (Recommendation 33).

6. **Testimony Under Oath.** The Grand Jury recommended that testimony be given under oath at all formal zoning hearings.

We concur and recommend that the practice apply to hearings of the City Planning Commission, Board of Zoning Appeals and Office of Zoning Administration (Recommendation 19).

7. **Campaign Contributions.** The Grand Jury recommended that, in connection with each zoning case, the applicant be required to file a detailed list of campaign contributions made or promised to any elected official who may vote on the application.

We recommend City regulations requiring itemized reports from all elected officials and candidates, listing donors and amounts from each donor, including contributions handled through public relations firms and campaign committees. If this recommendation is carried out, it should provide a means of revealing contributions from zoning applicants (Recommendation 35).

8. **Overriding of Recommendations.** The Grand Jury recommended that a four-fifths vote of the City Council be required to override a recommendation of the Planning Commission which is in accord with the Master Plan and substantially the same as the recommendation of the City Planning Department.

We recommend no change from the present requirement for a two-thirds vote of the Council to override a Planning Commission recommendation. If the Council adopts an ordinance overriding an action of the Planning Commission and the Mayor vetoes the Council action, then a three-fourths vote of the Council is required to override the veto. We believe this provides substantially the same degree of limitation as suggested by the Grand Jury (see pages 81-82 of this report). In addition, the import of our report is to shift individual zoning decisions into the area of administrative determination with strict requirements for conformance to the General Plan and zoning code criteria (Recommendations 4, 7, 21 and 29).

¹³City Attorney, Report No. 6, *op. cit.*

CHAPTER 7

A PROGRAM FOR ACTION

GENERAL OBJECTIVE

To initiate, sustain and complete a program of action to accomplish the recommendations of this report.

In this chapter, we present an outline of the steps required to carry out our recommendations. There are essentially three types of actions involved: (1) amendment of the City Charter, (2) enactment of ordinances changing or supplementing the Municipal Code and (3) taking of administrative action by various City agencies. For many of our recommendations two or all three types of action are called for in proper sequence. In addition, some inter-related recommendations should be grouped together as packages for consideration and action.

In Figure 14, we identify the actions required, listed in groups according to the type of action. For each item the primary agencies which would be involved are indicated in the approximate order of their participation. Figure 15 provides a cross reference between recommendations and the discussion in this report for implementing them. A suggested schedule for action is summarized graphically in Figure 16. We recommend that the Mayor and City Council request the various agencies to proceed to implement our recommendations in accordance with this schedule.

Before turning to the list of actions in Figure 14, it may be helpful to summarize

the reasons for arranging these actions in the groups shown.

A. Code Amendments Which Can Be Made Without Changes in the Charter. A number of recommended amendments to the Municipal Code do not depend upon changes in the City Charter. These amendments should be promptly drafted and submitted for adoption.

B. Planning and Zoning Code Amendments Related to Charter Changes. Certain amendments will be needed to bring the Code into conformance with the Charter as revised, and to implement the proposed new Charter provisions. These Code amendments should be drafted concurrently with the Charter amendments, and adopted so as to be effective upon adoption and ratification of the Charter changes.

C. Complete Zoning Code Revision. The budget for 1968-1969 provides funds to commence work on the over-all revision of the Zoning Code. By the time our report is published, the budget will have been adopted and we assume this urgently needed item will be included. Work on this project should begin as soon as possible.

D. Miscellaneous Ordinance Related to Charter Changes. Regulations which we propose concerning conflict of interest, private communications and campaign contributions would not be part of the Zoning Code. Eventually these ordinances might be incorporated into the City Administrative Code which is currently being assembled and codified.

E. Charter Amendments. Changes in the City Charter must be voted upon by the people of the City after either approval by the City Council or through the initiative process. The Los Angeles City Charter Commission appointed by the Mayor is currently engaged in studying the entire City Charter. The Charter changes which we propose should be referred to and coordinated with the work of that body. However, we do not believe that our proposals should or need to be delayed until the Charter Commission completes its work. Since considerable time will be required for the drafting and consideration of Charter amendments before they can be placed on the ballot, it appears that the earliest feasible times for voting on these matters will be the municipal elections in April and May 1969. We therefore suggest prompt action to prepare Charter amendments in accordance with our recommendations, to be available for placing on the April 1, 1969, City primary ballot.

F. Administrative and Policy Actions. A number of our recommendations do not require changes in the City Charter or the Municipal Code and, therefore, can be accomplished by administrative order or policy resolution.

In the course of its work, the Committee has reviewed several specific proposals affecting planning and zoning which are currently under consideration by one or more City

agencies. We find three such matters which are in direct conflict with our recommendations. Therefore, we suggest immediate policy action to drop those proposals and to adopt our recommendations in their place.

In other cases, although Charter or Code amendments or both are needed in order to establish mandatory requirements, there is nothing to prevent putting these recommendations into effect earlier by administrative action.

G. 1968-69 Supplemental Appropriations. A few of our recommendations will require, at least initially, the assignment of additional personnel not provided for in current budget requests. These matters are of such importance in realizing the public and private benefits of sound planning and zoning that we feel immediate consideration should be given to the allocation of funds for these programs.

H. 1969-70 Budget. During next year's budget preparation, as well as in succeeding years, special emphasis should be given to continued support of improvements in planning and zoning. A high priority should be given to completing the over-all revision of the Zoning Code. In addition, adequate funding should be continued to achieve and maintain a meaningful General Plan and to inform the public adequately. Also, consideration should be given to present programs in relation to priority of needs in planning for Los Angeles. We are confident that the benefits to be gained are well worth the costs and that the long-term effect of improved procedures will be lower government expenditures than would be the case without these reforms.

Item No.	Action	Recommendation No.	Action Agencies
MUNICIPAL CODE REVISIONS			
Group A: Code Amendments Which Can Be Made Without Changes in the Charter			
A-1	Revise the conditional use provisions, including those for planned developments, and add new provisions for unclassifiable uses.	7, 8, 9	City Planning Department City Planning Commission Mayor City Council
A-2	Amend the Code to revise the jurisdiction of the Board of Zoning Adjustment to include only appeals on matters initially determined by a Zoning Administrator. Return other Board functions to the City Planning Commission and provide for them to be delegated to the Director of Planning insofar as possible. (Also to be adopted in a Charter amendment, Item E-1.)	15	City Planning Department City Planning Commission Board of Zoning Adjustment Mayor City Council
A-3	Amend the Code to require specific findings of conformance to the General Plan for changes in the Zoning Map or zoning regulations (also to be adopted in a Charter amendment, Item E-1).	4	City Planning Department City Planning Commission Mayor City Council
A-4	Amend the Code to establish revised and uniform procedures for appeals and transfers of jurisdiction.	22, 23	City Planning Department City Attorney City Planning Commission Mayor City Council
A-5	Amend the Code to establish procedures and related provisions, concerning such matters as a subscription service, testimony under oath, verbatim records, specific written findings, appearance of items on the Council agenda and identification of legislative matters.	16, 18, 19, 20, 21, 28, 29	City Planning Department City Attorney City Planning Commission Mayor City Council
Group B: Planning and Zoning Code Amendments Related to Charter Changes			
B-1	In connection with the preparation of Charter changes, prepare Code amendments to conform to and implement the new Charter provisions, including a General Plan Code, zoning on an area-by-area basis, the requirements for granting variances, and changing the title and jurisdiction of the Board of Zoning Adjustment (see Item E-1).	1, 2, 6, 12, 15	City Planning Department City Planning Commission City Attorney Mayor City Council
Group C: Complete Zoning Code Revision			
C-1	Initiate a study to revise the entire Zoning Code. (This has been approved as part of the 1968-1969 Budget).	5	City Planning Department
Group D: Miscellaneous Ordinances Related to Charter Changes			
D-1	Enact an ordinance establishing definition and requirements concerning conflict of interest (see Item E-3).	32	City Attorney Mayor City Council
D-2	Enact an ordinance restricting private communications between interested parties and Commission or Board members (see Item E-4).	33	City Attorney Mayor City Council
D-3	Enact ordinance on reporting of campaign contributions (see Item E-5).	35	City Attorney Mayor City Council

Figure 14. Actions Required to Implement Citizens Committee Recommendations

Item No.	Action	Recommendation No.	Action Agencies
CHARTER AMENDMENTS (Group E)			
E-1	Prepare and submit proposed Charter amendments covering all of the recommended changes to the planning and zoning sections of the Charter (Article VIII).	1, 4, 6, 12, 14, 15, 21, 28, 29	City Planning Department City Planning Commission City Attorney Mayor City Council Electorate
E-2	Prepare and submit a Charter amendment clarifying terms of office for members of the City Planning Commission and Board of Zoning Adjustment.	27	City Attorney Mayor City Council Electorate
E-3	Prepare and submit a Charter amendment concerning conflict of interest (see Item D-1).	32	City Attorney Mayor City Council Electorate
E-4	Prepare and submit a Charter amendment concerning private communications between interested parties and Commission or Board members (see Item D-2).	33	City Attorney Mayor City Council Electorate
E-5	Prepare and submit a Charter amendment concerning reporting of campaign contributions (see Item D-3).	35	City Attorney Mayor City Council Electorate
ADMINISTRATIVE AND POLICY ACTIONS (Group F)			
F-1	File the "Q"-zone ordinance proposal. Consider adoption of Committee recommendation relating to the problem (Council File No. 132,669).	10	City Council
F-2	Proposed changes in the civil service status of the positions of Chief Zoning Administrator and Associate Zoning Administrator. Retain present status.	13	City Administrative Officer Civil Service Commission City Council
F-3	The proposed ordinance for planned residential development. Consider adoption of Committee recommendation relating to this subject (City Plan Case No. 17155).	9	City Planning Commission
F-4	Support State legislation authorizing a Grand Jury in Los Angeles County to investigate planning and zoning matters in local municipalities on its own initiative, and support legislation to provide for an additional Grand Jury in Los Angeles County.	36	Mayor City Council
F-5	Give continuing recognition to the need for careful selection of City Planning Commission and Board of Zoning Appeals appointees and maintaining overlapping terms of office.	24, 27	Mayor City Council
F-6	Require testimony of all hearings to be under oath. Confirm the requirement that there be a verbatim record of each hearing, to be retained for at least three years.	19, 20	Office of Zoning Administration Board of Zoning Adjustment City Planning Commission
F-7	Institute the proposed procedure for adoption and amendment of the General Plan insofar as possible pending adoption of Charter and Code amendments (Items B-1 and E-1).	2	City Planning Department City Planning Commission City Council

Figure 14. Actions Required to Implement Citizens Committee Recommendations (continued)

Item No.	Action	Recommendation No.	Action Agencies
F-8	Prepare, approve and implement a program for area-by-area review of the General Plan, including area boundaries and schedule.	3	City Planning Department City Planning Commission City Council
F-9	Prepare, approve and implement a program for area-by-area review of the Zoning Map, including area boundaries, schedule and budget (see Items B-1 and G-1).	6	City Planning Department City Planning Commission City Council
F-10	Adopt policies on private communications and field trips.	33, 34	Board of Zoning Adjustment City Planning Commission
F-11	Schedule policy review sessions.	26	City Planning Department City Planning Commission Board of Zoning Adjustment
F-12	Conduct further study leading to adoption of a code of ethics.	31	City Council
F-13	Expedite improvements in the City's land ownership record system and the development of a street address file.	17	City Clerk City Administrative Officer Board of Administration of the Data Service Bureau City Planning Department
F-14	Establish a public notification subscription service. (An ordinance may be required to authorize this service; see Item A-5).	18	City Planning Department City Council
F-15	Develop orientation manuals for City Planning Commissioners and Board of Zoning Adjustment members supplemented by a program of seminars (see Item G-3).	25	City Planning Department City Planning Commission Board of Zoning Adjustment
F-16	Include the identification and reporting of zoning violations as a part of other city planning surveys.	11	City Planning Department
BUDGET ITEMS			
Group G: 1968-69 Supplemental Appropriations			
G-1	Provide for area-by-area review of the Zoning Map (see Item F-9).	6	City Planning Department Mayor City Administrative Officer City Council
G-2	Provide for an expanded zoning enforcement program.	11	Building and Safety Department Mayor City Administrative Officer City Council
G-3	Provide for preparation of an orientation manual and seminars for City Planning Commissioners and Board of Zoning Adjustment members (see Item F-15).	25	City Planning Department Mayor City Administrative Officer City Council
G-4	Provide for an improved public information program concerning planning and zoning	30	City Planning Department Mayor City Administrative Officer City Council
Group H: 1969-70 Budget			
H-1	Provide for continuation of the revision of the entire Zoning Code (see Item C-1).	5	City Planning Department Mayor City Administrative Officer City Council

Figure 14. Actions Required to Implement Citizens Committee Recommendations (continued)

APPENDIX A

BACKGROUND AND ORGANIZATION OF THE COMMITTEE

FORMATION OF THE COMMITTEE

The Citizens Committee on Zoning Practices and Procedures was created as a result of a special report of the 1966 Los Angeles County Grand Jury. The Grand Jury had completed its investigation of a criminal matter in which it was claimed representations had been made about favorable zoning treatment from the City of Los Angeles being secured in exchange for the payment of money. The case involved an application for a conditional use permit. Such applications are not provided for in the City Charter but are authorized by ordinance to be acted upon by resolution of the City Council. The Mayor has no veto power over such actions.

After hearing the evidence, the Grand Jury stated that many circumstances in the case caused it grave concern and the evidence it heard clearly demonstrated influence can, has been, and in all probability will be exerted through campaign contributions, political obligations and friendships.

On the basis of its consideration of the general subject, the Grand Jury had eight recommendations relating to zoning practices in the City of Los Angeles, all of which recommendations were addressed to the attention of the Mayor and City Council. The text of these recommendations is given in Appendix B.

The Grand Jury's special report was approved on December 14, 1966, and was released in printed form early in 1967, at the time the 1966 County Grand Jury was discharged.

After consideration by the Mayor and City Council, it was decided to organize a citizens committee to make the recommended

in-depth study. A committee of seven citizens was selected, three by the Mayor and four by the President of the City Council, after receiving nominations from members. Appointed to the Committee were Dr. John C. Bollens, Judge Fletcher Bowron, Mr. J. Robert King, Mrs. Robert Kingsley, Mr. Averill Munger, Mr. Rudolph Ostengaard and Mr. Gordon Whitnall.

In compliance with a directive by the Mayor and City Council, City Clerk Walter C. Thiel called the organization meeting for the Committee on April 25, 1967, at which former Mayor Fletcher Bowron was elected chairman, and Mr. Rudolph Ostengaard, vice-chairman. Walter C. Thiel was designated by the City Council as the official secretary, but by reason of his many official duties, it was necessary for him to name someone to act in his behalf. By arrangement with the City Administrative Officer, Dr. C. Erwin Piper, Mr. George Rigby, Chief Administrative Analyst, was designated as the acting secretary of the Committee. Also, through the cooperation of the City Administrative Officer, additional staff assistance was provided for the Committee by Mr. Richard Roether, Planning Consultant. The Committee also wishes to recognize the valuable contribution of Mrs. Brysis N. Whitnall throughout the entire course of the Committee's work.

DISCUSSION WITH CITY OFFICIALS, EMPLOYEES AND INTERESTED CITIZENS

To obtain information about the intended purpose of the Committee and the nature and scope of its inquiry, and to gain assurance that its findings and recommendations would receive serious consideration and might reason-

ably be expected to result in the enactment of necessary ordinances and submission to vote of the people of appropriate Charter changes, the Committee requested the Mayor and City Councilmen to meet with it in a full and frank discussion. They were asked to give their views regarding the scope of the Committee's work.

These officials made it clear that, in addition to the problems mentioned in the Grand Jury report, the Committee should feel free to look into any aspect of planning and zoning in Los Angeles.

Among the particular concerns expressed by the Mayor and Councilmen were the need to regulate planned residential developments as well as other conditional uses by ordinance rather than by resolution of the City Council. Reference was made to the registration of lobbyists and the need to know who is exerting influence in zoning matters. Referring to the subject of variances, it was suggested that perhaps there is a need for better mandatory provisions concerning the findings to be made before a variance is granted.

Mention was made of the need for adequate procedure in the approval of subdivisions to insure proper development. Attention was also called to the fact that Los Angeles has never had a completed master plan. Because the City has grown so rapidly, studies become obsolete as soon as they are completed. The need was stressed for members of the City Council not to commit themselves or agree to vote in a certain way before the matter is formally considered by the Council.

Other problems mentioned by Councilmen were the difficulties of getting information to the people and encouraging them to attend meetings in their community concerning the master plan. Another concern was with the impressive pictures shown of a building, market or other improvement promised when a zone change is requested; but frequently, after the change is made, only a "for sale" sign appears.

In this connection, it was suggested it might be better if a zone change could be granted with a proviso that, if the improvements represented at the time the application is considered were not made within a year or two, the zone would revert to the original classification. The Committee notes that the

Council now has under consideration a new proposed ordinance known as the "Q" zone ordinance. Elsewhere in this report, the Committee commends the Planning Committee of the Council for its intentions to solve this problem but suggests a more basic solution.

Also suggested for study by the Citizens Committee were proposals before the City Council relating to conflict of interest and to proposed requirements that members of the Planning Department, the Planning Commission, and the City Council make a declaration of non-interest before acting on any zoning matter.

Some officials voiced strong concern about the pressures exerted upon the members of the Planning Commission and the City Council, and expressed concern about assertions that City officials may be influenced by campaign contributions and other external pressures.

Other Councilmen and members of the City Planning Commission expressed varying, but generally similar, views with respect to what they felt to be undue pressures intended to influence official decisions. All stated that they were not influenced in decisions or votes on a pending matter, directly or indirectly, by reason of payment of money or campaign contributions.

In general, the officials who met with the Committee indicated their support of the purpose of the Committee and their anticipation of constructive changes resulting from its recommendations.

After hearing from elected and appointed City officials involved in planning and zoning matters, the Committee heard from and questioned top employees in the Planning Department, the Building and Safety Department and the City Attorney's Office. Thereafter, the Committee publicly announced that hearings would be open to any and all interested citizens and organizations. Numerous complaints and many constructive suggestions were received. A list of persons and organizations appearing before or making suggestions to the Committee is presented in Appendix E.

At the beginning of the Committee's inquiries, it was determined it was not the object of the Committee to gather evidence that might result in prosecution but, rather, to inquire into the adequacy of present laws and procedures in protecting the public interest and individual rights.

APPENDIX B

TEXT OF 1966 LOS ANGELES COUNTY GRAND JURY ZONING STUDY REPORT AND RECOMMENDATIONS

On November 22, 1966, this Grand Jury completed its investigation with respect to a complex zoning case in the West Valley section of Los Angeles. The evidence before us indicated that a developer had represented to his partners that he could secure favorable zoning treatment from the City of Los Angeles in exchange for payment of monies. While this jury could not legally conclude that such monies were actually paid for the very favorable zoning obtained by the developer, there were many circumstances in the case that caused us grave concern. Mainly, this body heard evidence indicating that the zoning sought in this case had adverse recommendations from every city agency that considered the application from its inception and, yet, when the matter was finally appealed to the Los Angeles City Council, the developer was successful in reversing all of these agencies that had previously considered the application. As a result of our concern generated by this case, we undertook a supplemental zoning study and heard testimony from several knowledgeable and informed persons in the field of zoning. We regretfully report that evidence we heard demonstrated that influence can and has been and in all probability will be exerted through the medium of campaign contributions, political obligations and friendships. This Grand Jury feels that it might be of assistance to issue certain recommendations as a result of conclusions reached from considering this evidence. Therefore, in the spirit of hope for continuing progress in the field of efficient and honest government practices at all levels and in all fields, the following recommendations are made:

1. That specialists in the field of zone problems who have been identified by various terms such as land consultants, expeditors, zoning advisors, etc., be required to register as practitioners in that line of work and that certain minimal ethical standards be estab-

lished for the conduct of their affairs. It appears that these men perform a valuable function for persons desiring land zoning changes, but that representation is totally unregulated and that community interests would be better served by knowledge of who performs these types of services, when their services are performed and by whom they are employed.

2. While there is no doubt that the zoning and classification of property is a complex field encompassing a multitude of applicable laws, it is nonetheless a function of government that should allow an individual owner an opportunity to apply for desired zoning without necessarily employing a specialist to represent him at great additional cost. It would appear compatible with sound governmental practices to provide ample public information through knowledgeable governmental employees to that individual seeking a zoning change by his own individual efforts. This information should minimally include advice on applicable standards and guidance in the procedures to be followed in prosecuting an application.

3. While we discuss zoning as a general term, we, of course, also wish to include different forms of zoning which would embrace Conditional Use Permits. The evidence before us indicates that in most forms of zoning reclassification, the Mayor, as an elected public official, has veto power. However, in a Conditional Use Permit no such veto power exists and the ruling of the City Council is final. It is, therefore, recommended that appropriate legislation be passed to authorize veto power on the part of the elected executive officer of the city on all property reclassification cases and that such an additional check and balance would serve in the best interest of the community.

Evidence further disclosed that rulings of the Board of Zoning Adjustment are final

and not appealable other than by expensive recourse to the courts. It is submitted that the interests of the community would be better served if the ruling of this agency were appealable to the City Council with veto power by the Mayor, and it is so recommended.

4. A growing area of concern in all levels of government has been in the field of conflicts of interest, that is, where an official called upon to act in a given field might have some interest in that field which would inhibit that official from acting in a wholly objective and uninfluenced manner. Certainly the field of zoning administration ranks high as a field of governmental activity calling for regulation of the officials practicing in said field to be free of any conflicting interest. For example, it is certainly plain to see the disservice to the public interest if an official called upon to vote on some zoning matter, passage of which would obviously enhance the value of surrounding land, did, in fact, own an interest in some of that surrounding land. Therefore, it is recommended that immediately upon appointment and/or election, whichever applies, and every six months thereafter while on the City Planning Commission, Board of Zoning Adjustments, or City Council, each member of those bodies shall file a sworn affidavit with the Mayor and City Attorney of Los Angeles listing all real estate properties, their location, zone and use, in which he has any direct or beneficial interest and any part of which are within the city limits of Los Angeles or within five hundred feet outside its borders, except that only his percentage ownership of total stock outstanding need be reported in companies owning more than ten parcels of land so located. These lists shall be confidential and for official reference of the Mayor and City Attorney and any duly authorized law enforcement agency only, unless clear cause has been demonstrated for indirect reference to or release of the lists in whole or in part by the City Attorney. The lists submitted by each member of the City Planning Commission, Board of Zoning Adjustments, and City Council shall be returned to him within ten days after he no longer serves on the Commission.

5. In the spirit of promoting greater public knowledge and awareness of what different governmental units are doing, it is recommended that except in public meetings or in the regular governmental offices of the City Planning Department and City Council in City Hall, discussion of zone changes by applicants, their representatives, and other directly interested parties with members of the City Planning Commission and members of the

City Council be incorporated as part of the Brown Act.

6. At any formal hearing wherein the advisability of granting, changing, or modifying zoning is under consideration, both the proponents and opponents shall be placed under oath.

7. The applicant shall, under penalty of perjury, file with the City Clerk a detailed list of any campaign contributions made or promised to any elected official who may vote on the application; said affidavit must be made at least five days before the hearing and must be a part of the file.

8. Finally, in view of our concern over the evidence in the case which gave rise to this zone study, to wit rejection of the zoning application until it was finally passed upon at the Councilmanic level, it is recommended that when the recommendation of the City Planning Commission on any matter before it under the provisions of the City Charter is (1) in accordance with the Master Plan adopted by the Commission, and (2) substantially the same as the recommendation of the City Planning Department to the Commission, a four-fifths vote of the City Council shall be required to reject the recommendation of the Commission; or, if the zoning requested is (1) not in accord with the Master Plan adopted by the Commission, and (2) the application is rejected by the Planning Department and the Planning Commission, a four-fifths vote of the City Council should be required to reverse the rejection of the City Planning Department and the City Planning Commission.

CONCLUSION

In conclusion, the Grand Jury has heard much evidence that demonstrates existing wrongs in the field of zoning administration which are subject to correction. Yet our study was one limited to evidence growing out of only one case. It is apparent that a projected and in-depth study of this field is not only overdue, but one which would be invaluable to the interest of our community. It is our recommendation that such a study be undertaken as soon as possible. While it is not within our purview to set forth guidelines for such a study, common sense dictates that such a study should be undertaken by an agency which is in no way answerable to any of the city agencies which are objects of the study itself.

Respectfully submitted,

THE 1966 LOS ANGELES COUNTY
GRAND JURY

Averill H. Munger, Foreman

Approved by the Grand Jury
December 14, 1966.

APPENDIX C

LOS ANGELES—THE PIONEER IN ZONING

Prepared by

Gordon Whitnall
Planning Consultant

(A member of the Citizens Committee and the first Director of Planning, City of Los Angeles)

Historically, the practice of controlling the use of land is as old as recorded history, but zoning, in the sense the term is now employed in this country, is far more youthful. In fact, it actually began in Los Angeles.

At the turn of the century, Los Angeles experienced an increase in population about as rapid proportion-wise as it has been experiencing in the last decade. Because the City was then relatively small, the sudden absorption of a large increase of population caused it to physically explode, with the result that various uses, previously concentrated in one place or another as a result of quite natural inducements, then scattered promiscuously, especially to the south and to the west. This caused a considerable intrusion into areas that prior to that had been excellent, desirable residential districts. These intrusions produced a spontaneous reaction, and it was not long before the City fathers were importuned — in fact, it was demanded of them — to do something that would prevent these damaging intrusions. As a consequence, the City Council directed the City Attorney to prepare whatever would be appropriate in the form of legislation to govern this problem.

The City Attorney called a conference of six people, three of them attorneys—including the late Meyer Lissner who, at that time, was also considered to be a political leader in the City. The three who were not attorneys were the late Dr. John R. Haynes, the late Dr. Dana W. Bartlett, and Gordon Whitnall.

The question the City Attorney asked was whether, in the opinion of those assembled, it would be a proper employment of the police power to undertake the regulation of the type and degree of land use. Three answered spontaneously. The answer was no. Those three were the attorneys. Upon being pressed for reasons, the answer was equally quick in coming—it had never been done.

The City Attorney observed that after getting this mandate from the City Council he had inquired into the circumstances that ought to govern, and he found that, by reason of its home rule status the City could do almost anything it desired to or thought it ought to do, provided only that it was not specifically prohibited by constitutional law or by statutory law. The City Attorney reported he found no such prohibition. Therefore, he assumed the City could, and it did.

Immediately out of that effort came litigation, some of which went all the way to the United States Supreme Court. In a surprisingly short period of time, final decisions came down. These cases are now referred to historically by popular names in planning circles rather than by the rigid legal designations. They are known as the Hadacheck Brickyard Case, the Quong Wo Laundry Case, and the Montgomery Lumberyard Case.

At about the time of the rendering of these decisions, or soon thereafter, something happened in New York—the sudden and spectacular running up Fifth Avenue of the center of the elite shopping district. It caused consternation and, in some places, almost panic. What caused this? Could it be stopped? There also a conference was called, in this instance by the late Edward M. Bassett, so well known in the planning and legal professions. He asked almost the identical question as did the Los Angeles City Attorney.

It had been observed that this shifting of the shopping center was coincident with the increase in building bulk occasioned by large new buildings at the lower end of Fifth Avenue and in the financial district. There was little hesitation about doing something regulatory-wise involving building bulk and construction because the principles involved were basically covered in building codes and those had been thoroughly adjudicated through the years. But there was a new factor attendant upon the change in Fifth Avenue, and that was a sudden shift in types of occupancy of these new buildings. This is an interesting story, but need not here be discussed.

At this conference, Bassett asked the same question—"We are confronted with this change in use which we believe is related to the phenomenon of the move. In your opinion, Gentlemen, may we use this thing called the police power for the purpose of controlling the type and intensity of land use?" There, as earlier in Los Angeles, the attorneys had an immediate and unanimous answer—"NO!" Being pressed for a reason, it was the same as had earlier been the answer in Los Angeles—"it hadn't been done."

But Bassett said he was not certain that it had not been done. Out of that conference there came the appointment of the Commission on Heights of Buildings, which rendered its report in bound form in 1913. Although it reveals a tremendous amount of informative data bearing upon this question, the high point in those pages is where it is reported that the police power had been used to control the type and degree of land use, and it quoted the Hadacheck Brickyard Case, the Quong Wo Laundry Case, and the Montgomery Lumberyard Case coming out of Los Angeles. That is why it is said that zoning, in the modern sense, began in Los Angeles because here was the first instance in which the police power was **intentionally** employed for this purpose. There are older records in this country where the police power was employed for some type of this form of regulation, but there was not an awareness of the significance of what was being done.

When New York acted as a consequence of the findings of the Commission on Heights of Buildings, it produced what was the first truly comprehensive zoning ordinance. It covered not only the type of use, but the height and bulk of buildings, intensity of use, open space and population density. But New York had no home rule privileges as did Los Angeles, and this is significant. Even the great City of New York, under the basic law in New York as in most of the states of the Union, needed specific authority from the state before it could employ the police power for this new purpose. So Mr. Bassett drafted the legislation that would empower the City of New York to use this new device of zoning for the purpose that all now know.

But Bassett had perception deep enough to realize that there were some inherent problems which could not easily be handled. One of the significant contributions, other than having the first really comprehensive ordinance, which was adopted in 1916, was the use of a map as part of the law. This was the first instance of a map being used as a substitute for printed metes-and-bounds descriptions in order to define specific areas. The map was constituted a portion of the ordinance.

Another major contribution by New York, based upon the enabling legislation, was to employ the variance. It was here that Bassett's foresight came into play. He recognized that super-imposing a man-conceived pattern of land use over an existing complex major city would inevitably reveal a few instances in which a piece of property here, and another one there, if made subject to the literal application of the zoning ordinance, would undoubtedly be deprived of privileges enjoyed by other properties in the same vicinity and zone, and that would constitute a very difficult problem of discrimination. It is doubtful whether any subject has been as much adjudicated by the courts of the land as different phases of the application of the police power. But in this particular field, the sum total of the infinite number of decisions by the courts on the use of the police power is summarized in lay language as follows:

The police power, to be validly employed, must always be employed consistently, and never in a manner to discriminate. Saying the same thing in another way, it shall never be used as a means of conveying a special privilege to some person or property that is not enjoyed by other persons and properties under similar circumstances. The latter is emphasized because even before the Citizens Committee on Zoning Practices and Procedures had been appointed, it had become quite evident that there were official acts being performed by and in the City of Los Angeles that did grant special privileges to individuals.

In 1920 came the creation of the City Planning Department of Los Angeles. One of the first tasks was to take the results of the earlier years of experimentation in this field of zoning which had resulted in seventeen different ordinances, and consolidate them into one. These seventeen separate ordinances were peculiar and quite unique; there was a separate ordinance to regulate each individual type of use. There was the brickyard ordinance, there was the lumber yard ordinance, there was the undertaking district ordinance, and others. The task in 1920, therefore, was

to take all of those ordinances and consolidate them into a reasonably modern, comprehensive ordinance that would cover the entire city and cover all subjects.

This led to certain other things. The new consolidated ordinance was enacted without any specific enabling legislation. It was done because there was no prohibition. But when the administration of the comprehensive ordinance was undertaken, difficulties were revealed. The situations that Bassett had anticipated would inevitably arise where adjustments were necessary, did arise. But, having no enabling legislation containing procedural methods, there was no practical manner by which these adjustments could be made and still adhere to good legal practice. Therefore, the only recourse was to give a special grant through a legislative amendment to the whole ordinance. As a consequence, while the whole ordinance was only a few pages thick, the amendments, before long, were as thick as an unabridged dictionary. It was almost humanly impossible to trace through and find out the net result of those myriads of changes.

An innovation resulted from recognizing the need for some clear definition of certain principles that would be employed when making adjustments. This involved defining, in simple terms, certain required showings that had to be affirmatively found with reference to any case where adjustments were being requested. Without affirmative answers to all of such questions, the adjustment would not qualify.

These required showings have remained the same, except that they have become a little more intelligible, a little more exact, a little more realistic. Basically, they are these: first, there have to be special circumstances attached to the property under consideration that do not apply to other properties in the same vicinity and zone; second, the granting of the adjustment is essential to the enjoyment of a substantial property right enjoyed by other properties in the same vicinity and zone but denied to the property in question, thus being discriminated against; and third, the granting of the adjustment will not be materially detrimental to the other properties in the same vicinity and zone. There has been

a fourth criterion added which is in both the Los Angeles City charter and the Municipal Code, and states that the granting of the adjustment shall not adversely affect the comprehensive general plan.

In that early period there were also some innovations, again representing pioneering on the part of Los Angeles. One of the innovations was to recognize the importance of dealing with the automobile when it wasn't working by requiring off-street parking. The manner of dealing with the problem was to include, for the first time in the history of the country, a provision in the zoning ordinance requiring that all places of residence provide space on the premises, under cover, for one automobile for each family unit or dwelling on the premises. That almost caused a revolution because some of the Realty Board members at that time were much opposed to this innovation.

Some of the more sophisticated zoning practices came under question and litigation resulted. On one day in 1926, the Supreme Court of the United States handed down what all consider to be probably the most comprehensive, searching decision related to the subject of zoning. That was the Euclid Village vs. Amber Realty Company case in Ohio. To one interested in the philosophy, the economics, the social organization and the necessity of meeting needs that will serve the entire community, the opinion in that case, written by Mr. Justice Sutherland, is a classic. He covers in it, in just a few sentences, the entire logic and reasoning on which the validity of zoning is based.

Justice Sutherland pointed out that this type of regulation involving this subject matter was, until then, quite unique and unprecedented, but that point by itself should not cause question, because things do change. The illustration the Justice gave was that there were times when there were no traffic laws anywhere in the nation. In fact, there was little traffic anywhere in the nation, and what there was, was on top of or behind a horse, and thus presented no particular social or physical hazard to the individual. But, he pointed out, when those means were supplanted by the hurtling tons of steel running on rubber in the form of automobiles, then

there was introduced a new hazard that was of concern to all of society and to every individual. Therefore, regulation became essential to assure the public welfare and safety.

The same day the Euclid Village case came down, there was also reported the Miller vs. Public Works Case, a Los Angeles case, and the Ross Zahn vs. City of Los Angeles case. Those cases received little attention by the Press, but there were headlines on the front pages about the Euclid Village case. However, there were certain things contained in these Los Angeles cases that were also very significant.

The case of Miller vs. Board of Public Works was a mandamus proceeding, and the Supreme Court merely refused to review the California decision. That case established the validity of what is now referred to as interim zoning. Los Angeles, due to its unbelievable geographical size, could not possibly await the enactment of a zoning map until the details had been completed on the map covering the entire 450 square miles. It would be so completely out of date it would be useless. So the obvious thing was done. A map of the City was divided into parts like pages in a book, and map after map after map was adopted. It was in connection with one of those maps in process of adoption that the Miller vs. Board of Public Works proceedings came up to force the issuance of a building permit for a multiple dwelling on West Adams Street that had been tentatively zoned, under the proceedings, as single residence. So that was the first validation of the interim principle.

Another pioneering practice caused considerable discussion between certain individuals, especially the late Edward M. Bassett and Gordon Whitnall. Bassett held that a residence was a residence—and how many dwelling units there were, or how dense the population was, did not change the fact that they were residences and that distinction could not be made between one-family dwellings and any other form of residence. In Los Angeles, Whitnall held that the distinction could properly be made, it was done, and the Supreme Court approved. Since then, single-family residential classifications have been commonly utilized all over the country.

These cases and practices are cited as precedents which Los Angeles has pioneered.

Then other changes came. With the new 1925 Charter, new devices in the field of planning were recognized. Together with the late George Dunlop, Secretary of the Board of Freeholders, those portions of the Charter dealing with planning were prepared and were adopted. Years later, Mayor Fletcher Bowron, recognizing from several sources in his official family that there were rather important Charter changes which ought to be made, appointed a citizens committee to look into the matter, with special reference to the field of planning. That committee then secured the assistance of the Haynes Foundation. The Haynes Foundation also had very intimate relationships with Town Hall, an organization of men broadly interested in civic affairs.

The Committee, through the Foundation, inquired of Town Hall to learn what could be done with reference to getting some charter amendments that would properly deal with the question of variances. It was discovered that Town Hall had drafted some amendments providing for the Office of Zoning Administration and the Board of Zoning Appeals. Specific proposed amendments, after being processed through Town Hall, were submitted to the electorate by the City Council, and they were passed. These established the Office of Zoning Administration and its appeal agency, the Board of Zoning Appeals.

It should be pointed out here that a variance involves the consideration of equities because it is intended to deal with, and only with, those cases where the circumstances applicable to a piece of property cause discrimination, or might represent a special privilege. Therefore, the process of determining what is fact and what is not, and what ought to be done and what ought not to be done, is a matter of judicial interpretation. All over the United States, excepting in California, this phase of planning administration is recognized as a quasi-judicial function, and where Boards of Zoning Appeal, or whatever they may call them, exist, they are serving as quasi-judicial agencies and not administrative, not legislative.

What was done here was again unique. Elsewhere there never had been anything except this quasi-judicial body that served in the capacity indicated, and in no other capacity. But Los Angeles went one step further. Instead of having only a quasi-judicial court that would adjust these equities involving pieces of property as it related to zoning, it also established what might be called a **lower court**—the Zoning Administrator. He was an individual. In all of these years the function of Zoning Administrator has worked extremely well. In fact, the record of the Office of Zoning Administrator has been outstanding under Huber Smutz, the first Zoning Administrator. It is difficult to do him justice and adequately acknowledge what he has done in the face of all of the facts. Until recently the function of the Board of Appeals has also been excellently conducted, but its Charter status and its duties were changed by Charter amendment.

If, perchance, the **lower court**, or first level of adjustment, did not produce a finished result that was acceptable, the case could then go on appeal to the Board of Appeals. Then, if the action on appeal did not produce an acceptable result, the case could go on through the judicial process to a court of competent jurisdiction. The number of appeals to the Board of Appeals from the Zoning Administrator were surprisingly few, and there was a surprising degree of adherence to original determinations by the Zoning Administrator. The number of appeals has increased since the appellate body was changed to the Board of Zoning Adjustment and there has also been an increase in the number of reversals or modifications of the Zoning Administrator's decisions by the Board of Zoning Adjustment.

Things went well under the old order, and the office in Los Angeles began to acquire a nationwide reputation for excellence. The question of variances continued to grow in importance. There were more specific procedures provided, the processing became more orderly, and there were still other changes by way of innovations that occurred, not always by Los Angeles itself but in this immediate vicinity, changes that have produced conditions, vocabulary and practices that everybody

today takes for granted; but they all had a beginning.

One change that was interesting was the matter of designating the different classifications in zoning ordinances. In the earlier days the manner of identifying different classifications, or so-called zones, was as broad as letters and figures in combinations could possibly devise. Some cities used a numerical method, some used an alphabetical sequence, some used an alphabetical sequence in exactly the reverse order of that used in other cities in their immediate vicinity. This was true of Los Angeles and Pasadena. Zone A in Los Angeles meant the highest classification, restricted to single-family dwellings; Zone E was the least restricted, heavy, obnoxious industrial type of classification. But over the city boundary line in Pasadena—and you cannot see the line on the ground but have to get a map to see where the line is drawn—the A meant the most unrestricted type of classification whereas E was the most restrictive and protected type of single-family residence zone.

So realtors and bankers, dealing with sales and loans, had to learn two languages for only those two cities. But every other city also had its own system of designating zones. Out of conferences came the concept that there should be some uniform generic terms. A simple method was devised. For the generic or category type initials were used—R for residential, C for commercial, M for manufacturing and A for agriculture. In each of those categories there may be gradations, so numerical suffixes were added—R1, R2, R3, C1, C2, C3 and so on down through the alphabet and numerals. This contribution by Los Angeles has spread all over the country.

Then came the first comprehensive major revision of the Los Angeles zoning ordinance. In the first half of the 1940's, it became important that there be a complete restudy, review and redrafting of the entire Zoning Code. One of the innovations was to change Bassett's initial provision that a nonconforming use could continue with no date set for its elimination. The only control was that it could not be enlarged or remodeled and if, for any reason, it was discontinued or destroyed, it could not be replaced.

Bassett's concept was that in time the nonconforming uses would be eliminated. But it has not worked out that way. The existence of a nonconforming use almost universally resulted in a contagion, or served as a lever to force permission for more of the kind to proliferate. If one had a nonconforming use in the City of New York, one was apparently granted a perpetual special privilege that was denied to all other property in the city under similar circumstances. This certainly constituted a violation of the basic concept of the use of the police power. Bassett later came to recognize that this did constitute the granting of a special privilege. After recounting to Bassett the reasoning back of the then pending proposals in Los Angeles to provide for the abatement of nonconforming uses as a substitute for the apparent granting of a permanent special privilege to nonconforming property, which was the only logical interpretation of the original New York provisions, Bassett's response was "Now that you mention it, I wonder that we were so shortsighted as to violate the precepts of this type of practice contrary to what we ourselves have been advocating. I believe you are right, it does constitute the granting of a special privilege, and for that reason doubtless the provision of the New York and all other ordinances in the country that copied it verbatim are invalid to the extent that they provide a public policy granting perpetual privileges to certain persons. More power to you in Los Angeles." Los Angeles did incorporate in its zoning code the principle of abatement of nonconforming uses, and this principle was upheld by the Los Angeles vs. Gage case in which abatement was determined to be a valid employment of the police power.

As a result of these innovations, so many of which had their birth in the west, and particularly in Los Angeles, there is a firmer foundation on which to base zoning policies and practices so as to more readily accomplish the desirable purposes of zoning.

Another recent innovation is the increasing employment of what is referred to as performance standards. By this is meant identifying the particular characteristics of each type of use in terms of those features that

cause an impact of one use upon another. In other words, the measurement of what comprises compatibility or incompatibility. This question of performance standards is receiving increasing attention.

In the field of planning, with special reference to the subject of zoning, there are those who through the years have observed cause and effect, and have come to realize that certain types of uses are encouraged by certain circumstances of environment, physical or otherwise. Certain other combinations of environmental factors may discourage certain types of uses, just as in the plant kingdom one never sees cacti growing in swamps, and one never finds cattails growing in the desert. Recognizing these things, the element of the design of land can and does influence to a great degree the manner of use to which that land will be put.

Everyone recognizes the difference between a little cottage, a department store and a great automobile plant. Everyone recognizes that no one of the three will serve the

purpose for the other two. But in urban areas, land has been divided into the same type of little chunks to be used in that form no matter what the purpose might be. Now land is being designed for the purpose for which it is to be used, and being thus designed it is not as susceptible of political manipulation as is possible when the only concern was a change of classification. Once the design is established, it becomes difficult to capriciously change its status by legislative or administrative act. So stability, security and confidence in the efficacy of zoning is depending more and more upon the manner in which land is designed.

What does the future hold in store? The major answers to the problems of today are not to be found in efforts to legislate honesty, perfection and ethics in individual human beings, but to clarify the processes by which public decisions are reached in matters of controlling land use for the benefit of the community. They must be made so workable, so logical and so clear that no one, regardless of his motives, can go far astray.

APPENDIX D

GLOSSARY OF PLANNING AND ZONING TERMS

The following terms are defined only as they relate to the organization, laws and practice of Los Angeles City government. Their inclusion does not necessarily imply endorsement of the present practice.

Board of Zoning Adjustment — A five-member citizen board created by a 1963 Charter amendment to supplant the Board of Zoning Appeals. The City Council, by ordinance, may transfer responsibilities, other than for Master Plan and Zoning Code changes, from the Planning Commission to the Board of Zoning Adjustment. Pursuant to this provision, the Board has been designated to handle building lines, review of public property acquisitions and dispositions, parcel maps and private street maps, in addition to appeals from Zoning Administrators. (See City Charter, Section 98½ and 99, and Municipal Code, Section 12.28.)

Board of Zoning Appeals — A board of three citizens, created by Charter amendment in 1941, to hear and decide appeals from determinations of the Zoning Administrator. Under a 1963 Charter amendment this Board was converted to a five-member Board of Zoning Adjustment with additional powers. This report is recommending re-establishment of a Board of Zoning Appeals with its original limited functions.

Building Line — A line established by ordinance controlling the minimum setback of buildings constructed along a street. The Board of Zoning Adjustment, in lieu of the Planning Commission, is currently designated to make recommendations to the City Council

on building lines, except when a building line matter is incidental to a zone change or subdivision matter. The Committee believes that building line matters are properly a planning function rather than a quasi-judicial function. (See Municipal Code, Sections 14.00-14.05 and 12.28C.)

City Charter — The basic document establishing the prerogatives of the City. The adoption of a charter is authorized by the State Constitution. The Charter is adopted and may be amended from time to time by vote of the people.

City Planning Commission — A citizen board first established by ordinance in 1920 with fifty-one members. The 1925 City Charter changed it to a five-member board, as at present, with responsibility for advising the City Council on all planning and zoning matters. Under a 1941 Charter amendment, the Commission was assigned its present responsibility to advise the Director of Planning in the preparation of the Master Plan, to approve the Master plan, and to make recommendations to carry out the Plan. The Commission must also consider all changes in the Zoning Code and Map. A two-thirds vote of the City Council is required to override the Commission's recommendations on zoning matters. The Commission also acts as the appeal board relative of subdivisions. (See City Charter, Sections 70(c), 96, 96½ and 97.)

City Planning Department — A Charter-created department of the City government, consisting of a civil service staff headed by the Director of Planning. The Office of Zoning Administration is organizationally considered

to be one of several divisions within the Department, although this Office has independent powers conferred by the Charter. The City Planning Commission, Board of Zoning Adjustment and Master Plan Advisory Board are all related to the Department and serviced by the Department staff. (See Figure 11, page 57 of this report and City Charter, Sections 70(c) and 94.)

Community Area — A developed area of substantial size (usually several square miles) with an identity based on social, economic and physical factors. A community area within the Los Angeles metropolitan region usually consists of an extensive residential area associated with a business district, and with schools, parks, churches and occasionally some industrial areas. The boundaries of a community may be well defined by open land, topographic features, transportation routes and differences in land use, or there may be no discernible boundaries. Such areas are often identified by a name, such as: San Pedro, Wilmington, Eagle Rock, Hollywood, Van Nuys, Central Business District.

Conditional Use Permit — A type of administrative approval not mentioned in the Charter, but provided for in the Zoning Code, by which a specific land use is authorized at a specific location and controlled by special regulations imposed as conditions of approval. The Committee in the report points out that the criteria for approval presently specified are far too general and should be made very specific. Under the recommendations of this report, all conditional uses would be assigned to appropriate zoning classifications, but would only be permitted within those zones at particular locations when specific criteria to be set forth in the Code are found to be satisfied. (See Municipal Code, Section 12.24.)

Director of Planning — The General Manager of the City Planning Department, appointed by the Mayor subject to confirmation by the Council, under the civil service provisions of the Charter. Prior to a 1965 Charter amendment, appointment was by the City Planning Commission. Control and management of the Department have been vested in the Director since 1941. (See City Charter, Sections 70(c), 79(b), 94½ and 95.)

General Plan — A policy document (presently referred to in the Charter as the "Master Plan") intended to guide the development of a community or region. The document may include both text and maps to set forth concepts, principles, goals, standards and a proposed geographic pattern of development. A general plan should always be comprehensive in the sense that the interrelationships of all relevant factors and territory are considered in preparing the plan. However, for presentation purposes, such a plan is often subdivided into elements dealing with various subjects such as population, land use, transportation, housing and public facilities. The California State Planning and Zoning Law contains the legal definition of the term **general plan**, applicable to counties and non-chartered cities. (See California Government Code, Sections 65302-65303.)

Land Use — The type of activity which occurs on a parcel of land. Land uses may be classified in various ways and to any degree of detail. **Residential, commercial, and industrial** are examples of major use classifications. These major use classifications may be further subdivided to provide degrees of use such as in residential zones, for example, single-family, limited multiple and heavy multiple. Zoning classifications are designations of land use for the purpose of regulation by districts.

Master Plan — Synonym for **general plan**. The term **master plan** is used in the Los Angeles City Charter and has been in common use elsewhere. However, California law has now substituted the term **general plan** and this is the growing practice throughout the United States. The Committee considers **general plan** to be the more descriptive and preferable term.

Master Plan Advisory Board — A Charter-created board composed of the Director of Planning as chairman, the Mayor, a Councilman, the City Administrative Officer, a number of City department heads and other officers of the City as designated by the Mayor. Originally created as the **Coordinating Board** in 1941, this body is charged with advising and assisting the Director of Planning in the preparation of the Master Plan. By ordinance, the City Council has also designated

this Board as the agency to advise on annexation matters. The Committee is suggesting renaming this body as the **General Plan Advisory Board**. (See **City Charter**, Section 95½.)

Municipal Code — The City ordinance which includes most of the City's regulations, organized and numbered by chapters, articles and sections according to subject matter. Chapter 1 of the **Municipal Code** contains the City planning regulations, including the **Zoning Code**.

Office of Zoning Administration — An agency created by the City Charter to act in a quasi-judicial capacity on (1) variances and (2) appeals from determinations of the Building and Safety Department in the administration and enforcement of the **Zoning Code**. The **Zoning Code** also assigns to this Office jurisdiction over certain conditional uses and interpretive matters. As originally established in 1941, the powers were vested in a single **Zoning Administrator**. In 1957, in order to handle the workload, a Charter amendment authorized a **Chief Zoning Administrator** and **Associate Zoning Administrators**, each with the power to make determinations on matters assigned. At present there are four **Associate Zoning Administrators** in addition to the **Chief**. (See **City Charter**, Section 98, and **Municipal Code**, Section 12.27.)

Parcel Map — A map showing a proposed division of a parcel of land into not more than four parcels. Under the **Municipal Code**, land may not be divided (with certain exceptions) until either a parcel map or subdivision tract map is approved. Initial approval of a parcel map is by the **Director of Planning**. At present, appeal is from the **Director** to the **Board of Zoning Adjustment** with further appeal to the **City Council**. (See **Municipal Code**, Sections 17.50-17.60 and 12.28B.)

Performance Standards — Measurements of various characteristics of land use which have an effect upon adjacent land uses. Population density, traffic flow, physical hazard, hours of operation, noise, odor, illumination, vibration, air pollution and water pollution are examples of characteristics for which performance standards can be established. The grouping or segregation of land uses by zoning

classification is properly guided by the expected performance of the various uses, and the regulation of land use may be accomplished by requiring that specific performance levels not be exceeded.

Piecemeal Zoning — Changing the zoning classification of land on a lot-by-lot basis, usually as a result of acting upon individual requests in the order received, rather than on an area-by-area basis. Such changes are likely to produce an irregular and inconsistent zoning pattern which is difficult to justify in terms of an over-all plan or fairness to other property owners. Results of this practice frequently produce the highly questionable "spot zoning." For this reason, piecemeal zoning is a highly questionable practice.

Planned Development — The use of a large parcel of land in accordance with a single integrated plan of development. A planned development must be created and maintained under the control of a single organization or by binding agreement among owners but not necessarily retained in a single ownership. Examples of planned developments are large modern shopping centers, industrial parks and residential complexes. A combination of land uses may be included within such a development.

Police Power — The police power is the inherent right of government to regulate the behavior of persons and the use of property. The legal authority of such regulation is limited to that which is reasonable to contribute to the health, safety and welfare of all.

Private Street Map — A map showing private road easements as distinguished from dedicated public streets and showing lots dependent upon such private streets for access. Under the **Municipal Code**, lots not on a dedicated street may not be created, nor building permits issued, unless a private street map is approved. Initial approval is by the **Director of Planning**. At present, appeal is to the **Board of Zoning Adjustment**. (See **Municipal Code**, Sections 18.00-18.12 and 12.28B.)

Public Land Acquisitions and Dispositions — Under the **City Charter**, all actions of the **City Council** involving the acquisition or sale of land, as well as some related public works

matters, must be referred to the City Planning Commission for report and recommendation prior to Council action. An unfavorable recommendation by the Commission requires a two-thirds vote of the Council to override. This provision is designed to promote conformance to the Master Plan. The Commission may delegate such approvals (but not disapprovals) to the Director of Planning. Authority is also provided for the Commission's responsibility to be transferred by ordinance to the Board of Zoning Adjustment. At present the Board is exercising this function. (See *City Charter*, Section 97(1) and *Municipal Code*, Sections 15.00 and 12.28C.)

Quasi-Judicial — Pertaining to a judicial function performed by an administrative agency. In zoning, the granting of a variance is a quasi-judicial act because it is done by a municipal agency rather than by a court of law, yet involves the adjudication of rights and equities of property owners. The power of a Zoning Administrator to make interpretations of how zoning regulations apply to specific situations is also a quasi-judicial power.

Slight Modification — A term presently used in the *City Charter* and *Zoning Code* to refer to the individual approval of minor deviations from the area (lot size and setback) requirements of the *Zoning Code*. Under Section 93 of the *Charter*, the Board of Building and Safety Commissioners is authorized to grant a slight modification if it finds that a special reason makes the application of the strict letter of the ordinance impractical and that the modification is in conformity with the spirit and purpose of the ordinance. No specific limits are defined for a modification granted by the Building and Safety Commission. However, Section 12.27B4 of the *Zoning Code* authorizes Zoning Administrators to also grant slight modifications (in the form of variances) and defines a slight modification as being limited to a twenty percent reduction of a setback requirement and a ten percent reduction in required lot area. A Zoning Administrator is not required to make written findings in connection with a slight modification, but is nevertheless bound by the same legal criteria which apply to all variance determinations.

Spot Zoning — The placing of a zoning classification on a piece of property different from that applying to adjacent properties, without any reason in terms of the public health, safety and welfare. Spot zoning is held by the courts to be illegal since it violates the principle that zoning regulations must be consistent and reasonably serve the public interest.

Subdivision — A division of land into lots accomplished by the filing and approval of a tract map. Under the California Subdivision Map Act, divisions of land into five or more parcels require tract map approval. In Los Angeles, initial approval of a tentative tract map is by the Director of Planning, with appeal first to the Planning Commission and then to the City Council. A tract map identifies the design of the land development accurately showing lots and dedicated streets. (See *California Business and Professions Code*, Sections 11500-11641, and *Municipal Code*, Sections 17.00-17.12.)

Supplemental Use District — A special type of zoning classification, provided for in the present Los Angeles *Zoning Code*, which may be combined, by legislative action, with other zoning classifications at particular locations to permit an additional land use. At present, supplemental use districts may be established only for oil drilling, rock and gravel production, animal slaughtering, and horse-keeping. (See *Municipal Code*, Sections 13 00-13.05.)

"T"-Tentative Zoning Classification — A zoning designation which may be adopted in combination with a regular zoning classification when rezoning property. While property remains in the "T" classification, it may be used only as if the previous zoning applied. The "T" designation is removed when a subdivision tract map has been recorded; the property may then be used in accordance with the new zoning classification. The purpose of the "T" designation is to guarantee that streets, utilities and other needed land improvements will be provided in connection with the development of new land uses. (See *Municipal Code*, Section 12.32A.)

Transfer of Jurisdiction — A procedure by which, if the agency designated to act upon a request fails to act within a specified time

limit, the applicant may request another agency to assume jurisdiction and act on the matter. At present, the Zoning Code provides fifty-day time limits and allows transfers of jurisdiction from the City Planning Commission to the City Council on such conditional use matters as are processed through the Commission, and from a Zoning Administrator to the Board of Zoning Adjustment on all matters processed through the Office of Zoning Administration.

Unclassifiable Use — A term used in this report to designate certain land uses which, because of unusual characteristics such as the need for large areas, cannot be effectively assigned automatically to any zoning classification. Examples are cemeteries and airports. It is recommended that these uses be individually approved at specific locations by legislative action.

Variance — A type of quasi-judicial determination, provided for in the Charter and in the Zoning Code, by which an adjustment is made in the zoning regulations applicable to a specific parcel of land. To be legal and proper, such a determination must carry out the intent of the zoning regulations, and is granted only to prevent an unintended and discriminatory application of the regulation; it must not grant a special privilege. (See City Charter, Section 97(2), and Municipal Code, Section 12.27B.)

Zone — In order to regulate the use of property, land in the City is placed in zones

according to the use permitted for it. The Zoning Map accurately defines the boundaries and locations of zones for categories of land use as set forth in the Code and within which zone other categories of land use are excluded.

Zone Change — An amendment to a portion of the Zoning Map (which is a part of the Zoning Code); a change in the zoning classification of particular parcels of real estate. (See Municipal Code, Section 12.32.)

Zoning Administrator — See Office of Zoning Administration.

Zoning Classification — A refined listing of land uses which, either individually or as to type, are identified as possessing similar characteristics or performance standards and are permitted as compatible uses in a zone. For each zoning classification, the Zoning Code includes provisions, conditions, and requirements related to the permissible location and arrangement of permitted uses.

Zoning Code — That part of the Municipal Code which contains the City's zoning regulations; Articles 2, 3 and 6 of Chapter 1 of the Municipal Code constitute the Zoning Code.

Zoning Map — That part of the Zoning Code consisting of map sheets and diagrams which show the territory of the City divided into zones, with symbols to indicate the classification of property within each zone. (See Municipal Code, Section 12.04B.)

Zoning Ordinance — Synonym for Zoning Code.

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APPENDIX E

SUMMARY OF CITY COUNCIL FILES RELATED TO THE COMMITTEE'S STUDY

FILES REFERRED TO THE CITIZENS COMMITTEE

FILE NO. 131,411 (Referred by the City Council)

Subject: Appeals from the Board of Zoning Adjustment to the City Council. Definition of variance categories.

Summary: Initially, a Charter amendment was proposed which would authorize the Council to provide for appeals to the Council on those variance and conditional use matters for which Board of Zoning Adjustment action is now final. After receiving reports from the Board of Adjustment, the Planning Committee and the Charter and Administrative Code Committee, the Council ordered the matter to be filed.

Another proposal was then made to amend the Charter to authorize the Council to define the categories in which the variance procedure could be utilized. After two public hearings, the Planning Committee recommended the matter be filed. However, the Council referred the file to the Citizens Committee for report.

Citizens Committee Recommendations: The Board of Zoning Appeals (our suggested renaming of the Board Adjustment) should not consider matters other than appeals from decisions of a Zoning Administrator. These matters, being administrative and quasi-judicial and not legislative, should not be further appealable to the Council (Recommendation 15).

The limitations on variances contemplated in the Council file should be accomplished by Charter amendment. The Committee believes this is preferable to making such provisions by ordinance (Recommendation 12).

FILE NO. 132,460 (Referred by the City Council)

Subject: Citizens Committee study of Grand Jury report.

Summary: This is the basic file under which the Citizens Committee on Zoning Practices and Procedures was established. The "Zoning Study Report and Recommendations" of the 1966 Los Angeles County Grand Jury was referred to the Committee for report and recommendation thereon. The Grand Jury report contained eight recommendations. (See Appendix B for the complete Grand Jury zoning report.)

Citizens Committee Recommendations: The Committee recommendations relating to each of the Grand Jury recommendations are summarized in Chapter 6.

FILE NO. 132,460, SUPPLEMENT 1 (Referred by the City Council)

Subject: Ethics, conflict of interest and campaign contributions.

Summary: The Council referred the following documents to the Citizens Committee for its consideration:

1. Assembly Bill 22 introduced January 3, 1967. Would require amount of campaign contribution from each contributor to be listed by his name in campaign statements.

2. Assembly Bill 173 introduced April 20, 1966, and now effective. Sets salaries for State legislators. Prescribes a code of ethics for State legislators and employees of the Legislature.

3. Los Angeles Times article, December 30, 1965, "State's Top Elected Officials and Their Finances."

4. Reprint from Los Angeles Times, September 15, 1965. Article on State Legislators, "They Serve Too Many Masters?"

5. Reprint from Los Angeles Times, September 15, 1965, "The Financial Resources of California's Legislators."

Citizens Committee Recommendations: Adopt a code of ethics for City officials and employees involved in planning and zoning matters (Recommendation 31).

Require Planning Commission and Board of Zoning Adjustment members to declare any conflict of interest before considering each planning and zoning matter (Recommendation 32).

Enact municipal regulations to require itemized reporting of campaign contributions, listing donors and the amount from each donor and including indirect contributions handled through professional firms managing campaigns, campaign committees, etc. (Recommendation 35).

FILE NO. 132,669 and 137,021 (Referred by the City Council)

Subject: "Q"-Qualified zone.

Summary: By adoption of a Planning Committee report, the Planning Department was requested to propose a means by which zone changes could be granted with requirements to insure that specific development proposals are carried out. In response, the Department and the Planning Commission recommended an ordinance to establish a "Q"-qualified zoning classification to be used in conjunction with a change of zone in order to limit a site to specific uses and site development conditions (City Plan Case No. 20414).

Citizens Committee Recommendation: The Committee opposes this proposal and makes other suggestions which, if followed,

would go far toward solving the problem (Recommendation 10). At the invitation of the City Council, the Committee submitted a report on this subject on May 23, 1968. After receipt of the Citizens Committee report, the Council referred the matter to its Planning Committee for further consideration.

FILE NO. 132,683 (Referred by the Planning Committee of the City Council)

Subject: Declaration of financial interests.

Summary: It was initially proposed in a Council motion that all elected and appointed officials of the City dealing with planning and zoning matters be required to file sworn affidavits each six months, listing their real estate properties in the City. The Council amended this proposal to include reporting of other personal holdings, and requested the City Attorney to draft an ordinance. The City Attorney requested clarification as to the intended scope of the ordinance, and, after a hearing, the Planning Committee recommended certain clarifications. However, the Council failed to adopt the Committee recommendations. Subsequently, the Planning Committee transferred the file to the Citizens Committee for its consideration.

Citizens Committee Recommendations: Require by ordinance and amplification of the Charter that Planning Commission and Board of Zoning Appeals members declare any private or personal interest prior to consideration of each matter. The Committee, in a subsequent report, intends to submit additional recommendations, including a suitable definition of conflict of interest (Recommendation 32).

FILE NO. 132,683, SUPPLEMENT 1 (Referred by the Planning Committee of the City Council)

Subject: Disclosure of conflict of interest

Summary: Initially, it was proposed by Council motion that an affidavit be required in connection with each planning or zoning case, by which each elected or appointed official processing the matter would certify that he has no financial, personal or relationship

interest in property within 300 feet of the property under consideration. The Planning Committee held a hearing and recommended that sworn affidavits be required only when there is an interest in the property involved, with a misdemeanor penalty for violations. The Council failed to adopt this recommendation. Subsequently, the Planning Committee transferred the file to the Citizens Committee for its consideration.

Citizens Committee Recommendations: Require, by ordinance, that Planning Commission and Board of Zoning Appeals members must declare any conflict of interest prior to consideration of each matter. The Committee, in a subsequent report, intends to submit additional recommendations including a suitable definition of conflict of interest (Recommendation 32).

FILES NOT REFERRED TO THE COMMITTEE BUT RELATED TO THE COMMITTEE'S STUDY

FILE NO. 119,840

Studies and proposals to change the procedure for approval of planned residential developments. The most recent proposal of the Planning Department (City Plan Case Nos. 17155 and 19333) would provide for such developments under Supplemental Use District provisions and would establish a special zoning enforcement unit in the Building and Safety Department. The Planning Commission is currently considering this matter.

The Committee recommends controlling planned developments under improved conditional use regulations and giving the Building and Safety Department an adequate enforcement staff (Recommendations 9 and 11).

FILE NO. 132,461

Proposal to require that campaign contributions of more than \$25 be reported by applicants and other parties with a beneficial interest in a zoning matter. The Planning Committee reported on this without recommendation while the Governmental Efficiency Committee submitted a recommendation in

favor of the proposal. After several motions failed of adoption, the matter was ordered to be filed.

The Committee recommends a City ordinance requiring itemized reports from all elected officials and candidates, listing donors and amounts from each donor (Recommendation 35).

FILE NO. 132,822

The file under which the lobbyist registration ordinance was enacted. This action relates to the first recommendation of the 1966 Los Angeles County Grand Jury (see Chapter 6).

Pending further experience with the new "lobbyist" registration ordinance, the Committee has no recommendation at this time.

FILE NO. 135,781

A proposal that the Zoning Code be amended to include any officer, board, department or bureau of the City among those eligible to file an appeal to the City Council from an action of either the Planning Commission or the Board of Zoning Adjustment on those conditional use permit cases which are appealable to the Council.

The Committee recommends that all conditional use permit cases operating under the new concept presented in this report be appealable only to the Board of Zoning Appeals (Recommendation 7) and that the Planning Commission and Planning Director be included among those eligible to file such appeals (Recommendation 22).

FILE NO. 136,635

Proposal in Council to amend the Charter in order to protect tenure in office and overlapping terms of City commissioners. The proposed amendment would provide that: (1) a commissioner shall serve a full term unless he resigns or is removed for cause by the Mayor, subject to approval of the Council by a two-thirds vote; (2) an office is deemed vacant at the expiration of the term unless an appointment or reappointment is made by the Mayor and approved by majority vote of the Council;

and (3) if an office remains vacant for thirty days, the President of the Council shall make an appointment, subject to approval of the Council by majority vote. This proposal has been referred to the Charter and Administrative Code Committee.

The Committee recommends a similar Charter amendment, with some differences in detail, and also requiring that resignations are to be effective only when voluntarily filed with the City Clerk (Recommendation 27).

APPENDIX F

LIST OF PERSONS WHO MET WITH THE COMMITTEE OR CONTRIBUTED SUGGESTIONS

The Committee expresses its appreciation to all persons who met with the Committee to offer suggestions and advice and also wishes to acknowledge the assistance of the many persons who provided technical advice and staff assistance in the preparation of this report.

CITY OFFICIALS AND EMPLOYEES

MAYOR

Sam Yorty

CITY COUNCIL

L. E. Timberlake (Sixth District),
President
Ernani Bernardi (Seventh District) and
Todd Hunter, Deputy
Marvin Braude (Eleventh District)
John Ferraro (Fourth District)
John S. Gibson, Jr. (Fifteenth District)
John C. Holland (Fourteenth District)
Paul H. Lamport (Thirteenth District)
Gilbert W. Lindsay (Ninth District)
Louis R. Nowell (First District)
Thomas Shepard (Third District)
Robert M. Wilkinson (Twelfth District)

BOARD OF ZONING ADJUSTMENT (Members at the time of Committee hearings)

Roger S. Hutchinson, Chairman
James R. Tweedy, Vice Chairman
Gordon G. MacLean

BUILDING AND SAFETY DEPARTMENT

Robert J. Williams, Superintendent of
Building
Donald O. Woodward, Chief Investigator

CITY ADMINISTRATIVE OFFICE

C. Erwin Piper, City Administrative
Officer
George Rigby, Chief Administrative
Analyst
Richard A. Weilein, Senior
Administrative Analyst

CITY ATTORNEY'S OFFICE

Roger Arnebergh, City Attorney
Claude E. Hilker, Assistant City Attorney
Edward L. Davenport, Chief Trial Deputy

CITY CLERK'S OFFICE

Walter C. Thiel, City Clerk

CITY PLANNING COMMISSION (Members at the time of Committee hearings)

Ellis A. Jarvis, President
John J. Poillon, Vice President
Melville C. Branch
David S. Moir
Allen T. Murphy

CITY PLANNING DEPARTMENT

Calvin S. Hamilton, Director
Frank Lombardi, Executive Officer
Glenn Blossom, City Planning Officer
Thomas W. Golden, Principal City
Planner
Ralph O. Romero, Secretary, Board of
Zoning Adjustment

Huber E. Smutz, Chief Zoning
Administrator
Charles V. Cadwallader, Associate
Zoning Administrator
Arthur Dvorin, Associate Zoning
Administrator
Manus D. O'Grady, Associate Zoning
Administrator
Rowland A. Rudser, Associate Zoning
Administrator

REPRESENTATIVES OF ORGANIZATIONS

BRENTWOOD PROTECTIVE ASSOCIATION

Melville J. Kolliner
Hugh J. Snow

BRIARCLIFF IMPROVEMENT ASSOCIATION, STUDIO CITY

Mrs. Leroy M. Dearing, President

CANOGA PARK CHAMBER OF COMMERCE

Allen W. Fitzgerald, Executive Manager
James Dambach, Zoning Committee

ENCINO PROPERTY OWNERS ASSOCIATION

Mrs. Fred Akers, Vice President and
Zoning Chairman
Mrs. Robert Neiman

FEDERATION OF VALLEY PROPERTY OWNERS, INC., WOODLAND HILLS

James E. Sanderson, Chairman
of the Board

LEAGUE OF WOMEN VOTERS OF LOS ANGELES

Mrs. Elizabeth K. Armstrong

LOS ANGELES CHAMBER OF COMMERCE

Robert Bolling, Chairman, Task Force
on City Zoning
Cleon A. Janos, Manager, Construction
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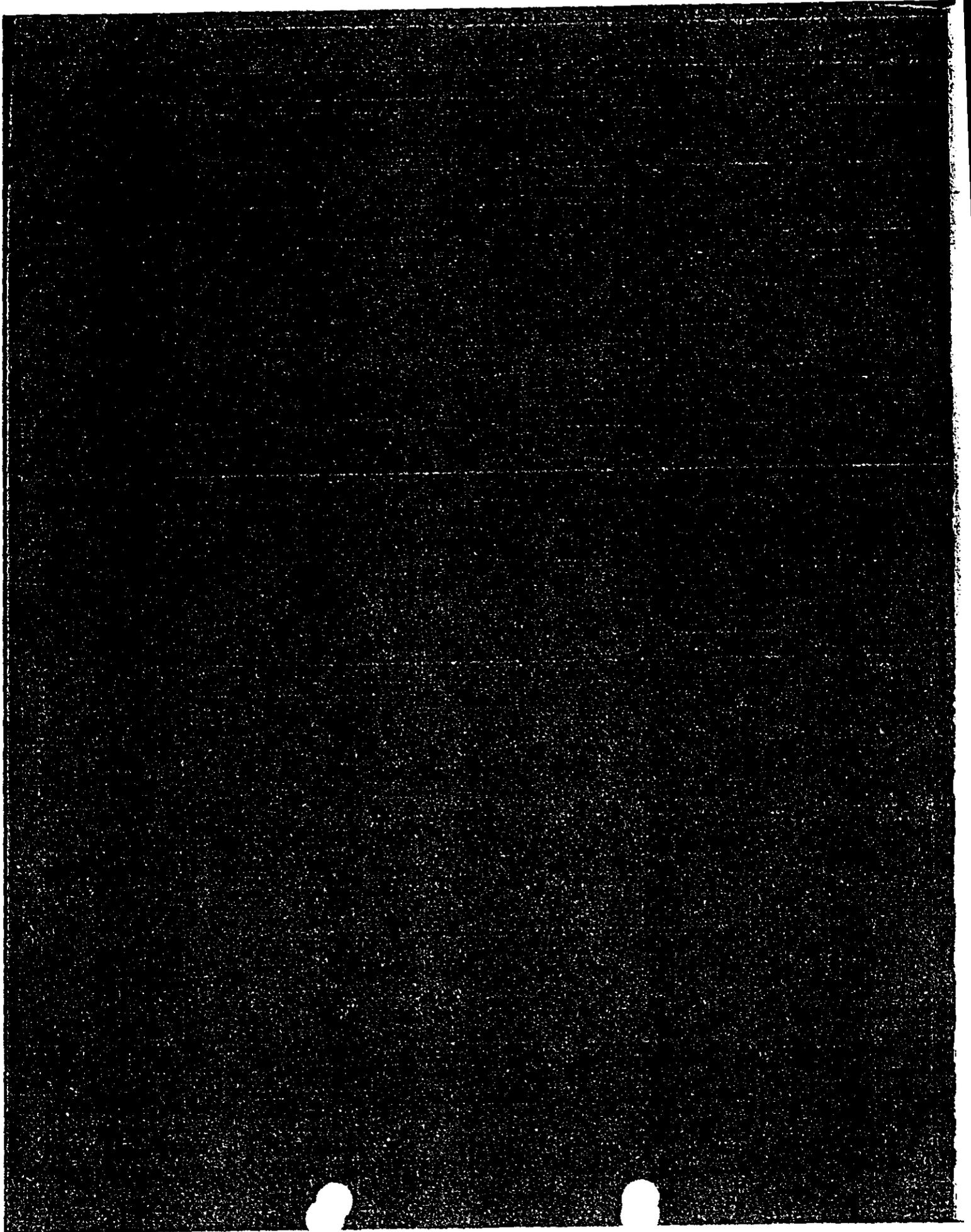
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A PROGRAM TO IMPROVE PLANNING AND ZONING
STAFFS WITH A VIEW TO QUALITY CONTROL
AND COMMUNITY DEVELOPMENT

OFFICE OF THE DIRECTOR OF PLANNING AND ZONING
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Gordon Whitnall

Planning Consultant

Instructor of Planning, University of Southern California, 1921 to present

First Director of Planning, City of Los Angeles, 1920-1930

SUMMARY REPORT

INTRODUCTION

The Citizens Committee on Zoning Practices and Procedures was appointed early in 1967 by the Mayor and City Council to make an in-depth study of planning and zoning practices in the City of Los Angeles.

The Committee's formation resulted from a special report and recommendations on zoning practices issued by the 1966 Los Angeles County Grand Jury. That report was issued after the Grand Jury's investigation into a zoning case in which it was alleged there had been improper influence exerted on officials to obtain a favorable decision. After having reviewed all evidence, the Grand Jury stated that many of the circumstances in the case caused it grave concern and that the evidence it had heard clearly demonstrated influence had been and would continue to be exerted through campaign contributions, political obligations and friendships. The report concluded that a comprehensive study of planning and zoning practices was long overdue and would be of invaluable benefit to the people of Los Angeles.

After formation of the Citizens Committee, initial meetings were held with the Mayor and City Councilmen, who made it clear that the Committee should feel free to investigate all aspects of planning and zoning in Los Angeles.

The Committee's first report to the Mayor and City Council, "A Program to Improve Planning and Zoning in Los Angeles," has

been prepared and published after more than a year of hearings and investigation. This separate summary document is issued concurrently to enable citizens to quickly and easily take note of the most significant changes recommended by the Committee.¹

The Committee believes that its first report provides the general guidelines which, if followed, will insure good planning and zoning practices in the City of Los Angeles. In one or more later reports it will present suggested texts of proposed Charter amendments and significant changes to the present Zoning Code which should be enacted as soon as possible.

GENERAL CONCLUSIONS

As a result of the Committee's investigation, it has become clear that the basic solution to the problem of improper zoning practices is two-fold:

- A greater adherence to the principles of planning and zoning

- The clarification of laws and procedures so as to clearly differentiate the legislative, administrative and quasi-judicial processes of government.

Many present problems can be attributed to deviations from the basic principles involved in each.

¹Persons requiring a more detailed knowledge should refer to the full report. Such persons should make a request in writing to the Committee, Room 375, City Hall, Los Angeles.

There can be no adequate consideration of zoning practices without considering, at the same time, the principles and practices of city planning in general. The Committee's findings and recommendations take into account this essential relationship.

Planning authorities agree that individual zoning actions by the legislative body must have reference to an over-all zoning plan, and such plan must, in turn, relate to a master plan—the newer, more descriptive term for which is comprehensive general plan—for the future physical development of the city.

A comprehensive general plan deals with intermediate and long-range goals and objectives. It is a frame of reference which is used to guide the future physical development and growth of the city. The General Plan for Los Angeles should be the result of a complete and detailed analysis of the City. Its content should include not only maps showing the desirable trends for future development, but also statements of policy with respect to each element of the Plan.

Zoning, on the other hand, is a tool which is used to regulate specifically the use of land and to put into effect the principles and patterns set forth in the General Plan. Zoning cannot take the place of planning—it must be based upon the results of sound plans carefully developed.

Zoning is the process of authorizing, by districts designated as zones, the uses to which land may be put. Uniform regulations within a zone are fundamental to proper and legal zoning. The courts have held that the essence of zoning is territorial division recognizing the character of land and buildings particularly suitable for specific uses and the establishment of uniform regulations for uses within a zone. Rezoning, therefore, should be accomplished by areas or districts, rather than piecemeal or by spot zoning. The courts of practically every state condemn spot zoning as contrary to the general public interest, and in most instances, contrary to the basic legal provisions for zoning.

The term "zoning" has lost much of its significance in the City of Los Angeles, for it has come to mean promiscuous changes in the zoning pattern rather than adherence to consistent, comprehensive zoning. Procedures in actual practice have frequently become so

loose that even the limited requirements of the City Charter have not been met in numerous variance cases.

The practice in Los Angeles is not unique in this respect. In cities of almost every state, cases are reported where property owners seek to increase the value of their property by applying for zone changes, variances or conditional use permits, in a great many instances to the detriment of other property. In these cases, the approval of a change in permitted use or other regulations constitutes a special privilege.

Basically, there are three principal means for the operation of municipal government in the regulatory field; (1) the legislative process for determining policy, (2) the administrative process for applying the policies and (3) the quasi-judicial process for reviewing and adjusting matters equitably under the policies.

A great number of abuses described before the Committee have come through action of the quasi-judicial Board of Zoning Adjustment in reviewing appeals from decisions of the Office of Zoning Administration. The Committee is particularly concerned that actions of the Board of Zoning Adjustment have been improperly used as an alternative to legislative action by the City Council, thus allowing an applicant to select his forum. There have been many instances cited in which an application for rezoning was denied both by the Planning Commission and by the City Council on appeal. In some of these instances a subsequent request to a Zoning Administrator for a variance was also denied, but on appeal to the Board of Zoning Adjustment, all previous decisions were reversed and the use granted.

The net effect is a rezoning which constitutes a misappropriation of the legislative power which properly belongs only to the Mayor and Council. The Committee has concluded that there should be only one correct route to follow for each type of zoning action. There are at present two such routes, either legislative or quasi-judicial. The quasi-judicial route (variance) should never be used to produce an end result that should properly only be accomplished by a legislative change. A variance should not (and cannot legally) be a substitute for a legislative zone change.

SOME BASIC PRINCIPLES UNDERLYING THE RECOMMENDATIONS IN THE REPORT

The purpose and justification for the planning function in government, including zoning, are to develop plans, programs and standards that will permit utilization of land in order to achieve the greatest potential benefits for the community as a whole. Through this planning process, an environment conducive to the highest level of living, commerce and industry can be produced. In the final analysis, the extent to which these objectives are attained or lost must be the measure by which the success or failure of employing the planning function is judged.

It is also essential that any form of regulation, including zoning, adhere to those principles of justice, fair play and public participation upon which our system of government is based.

Specifically, with regard to zoning in the City of Los Angeles, there are basic questions that need answers. Providing these answers has represented a major assignment for the Committee.

The first question is whether the Zoning Map reflects the intended land use pattern of the City as defined by the comprehensive General Plan.

The City Planning Department is currently engaged in revising elements of the General Plan which are out of date and in developing new elements of the Plan which have heretofore been missing. Land use plans have been progressively adopted for some areas of the City, and plans are in progress for other areas. Completion of the General Plan should be a matter of high priority for the Department if the City is to have the necessary guide for better zoning.

The second question is whether zoning actions, either for zone changes, conditional uses or variances, stabilize the comprehensive land use pattern. Or do they represent an abandonment of the principles of comprehensiveness and substitute therefor isolated grants of special privilege, the effect of which is to destroy public confidence in the reliability of zoning and severely reduce any real value that zoning may have?

A third question is whether basic policies of land use control have been defined, including matters of procedure, and if so whether the administration of zoning has adhered to such policies. If adequately defined policies appear not to exist, how can they be established? In the event that adequate policies have been established, has the administrative process strengthened the policies or weakened them?

It must be recognized that the many criticisms which have been brought to the Committee's attention do not apply to all elected and appointed officials having responsibilities in planning and zoning matters. But these officials must be relieved of the great pressures exerted upon them; they must be afforded more time and opportunity for constructive planning. However, the Committee found that over the years the career staff of the Planning Department has performed its duties with competence, dedication and persistence. The staff has met the unprecedented rapid growth of this City with a consistently high quality of research, analysis, plan preparation and planning administration—the essential foundations for sound city planning efforts.

The City of Los Angeles pioneered in the regulation of land use. Through the years there have been many significant decisions of the Supreme Court of this State and the United States Supreme Court that have upheld imaginative zoning procedures originating in Los Angeles. But this community in recent years has fallen behind in practical and far-sighted municipal control of land uses. Los Angeles is now the third largest city in the nation and the center of the second largest metropolitan area, with constantly growing potentialities. It should be second to none in planning and zoning policies and procedures.

After fourteen months of exhaustive hearings, meetings, research and analysis of the extensive information received, the Committee is making thirty-six recommendations for the improvement of planning and zoning in Los Angeles. The recommendations in the full report are set forth in five chapters, each covering a major topic. In this summary report these five topics and the most significant of the thirty-six recommendations are discussed.

A SOUND LEGISLATIVE AND POLICY BASE FOR PLANNING AND ZONING

GENERAL OBJECTIVES

- To establish and maintain adequate legal authority for planning.
- To establish and maintain an adequate legislative and policy basis for land use control.

A community's physical development relies upon planning to set forth objectives and to coordinate efforts to reach these objectives. Zoning is a primary means of implementing city development plans and policies.

GENERAL PLAN

Objectives for a community are commonly compiled in a general plan—currently known in Los Angeles as the Master Plan. It is a policy statement, not a law or ordinance, but its purpose and method of adoption should be specified in the basic law of the City—the City Charter. A general plan should be comprehensive with respect to geographic area covered, subject matter included, objectives sought and the time periods to which the plan applies.

In Los Angeles, the basic purpose of the General Plan is not stated in the City Charter, and as a result the relationship of zoning legislation to the General Plan is vague. Also, the procedure for adopting and implementing the General Plan is poorly defined.

Recommendations²

- Amend the City Charter to set forth the purpose and nature of the General Plan, as well as general procedure for its development and adoption. Supplement the Charter with a Municipal Code section defining the content, form and specific procedure for adoption of the General Plan. (Recommendation 1)

²Throughout this summary report, the recommendations of the Committee are stated in abbreviated form. For the complete text of the recommendations, see the full report of the Committee. The recommendation numbers in parentheses refer to the numbering used in the full report.

- In the procedure for the adoption and amendment of the General Plan, include

A Planning Commission hearing
Submission to the Mayor for comments

A public City Council hearing.
(Recommendation 2)

- Review and revise the General Plan on the basis of an area-by-area review and a regular schedule established by the City Council following City Planning Commission recommendation. (Recommendation 3)
- Amend the Charter to require both the Council and the Planning Commission to make specific findings showing conformance to the General Plan when adopting or amending any zoning regulations or zoning maps. (Recommendation 4)

ZONING

The Zoning Code should implement the General Plan so as to promote the best over-all community development, prevent unnecessary conflicts between land uses and provide for the orderly functioning of the community. Long established legal principles require that zoning regulations be reasonable, consistent and nondiscriminatory.

Zoning practices in Los Angeles do not now sufficiently reflect sound planning objectives. Piecemeal or spot zoning is resorted to in place of zoning on an area-wide basis. Individual rights are sometimes restricted or privileges are granted on the basis of personal circumstance and pressure, rather than on the basis of serving the public interest.

The Zoning Code lags, rather than leads, City development. There has been no comprehensive, over-all review of the Code since 1946. Since then there have been over 300 amendments to the text of the Code and several thousand changes in the Zoning Map, mainly as a result of individual requests and specific problems.

Recommendations

- Initiate a complete revision of the Zoning Code including consideration of
 - Classifying land uses with more regard to compatibility
 - Providing a means of designating future zoning classifications

Updating development standards

Clarifying the roles of the different agencies involved in zoning processes.

(Recommendation 5)

However, pending completion of the over-all Code revision, some immediate corrective amendments to the existing Code should be made as recommended in the Committee report.

- Amend the Zoning Map through an area-by-area review procedure rather than on a piecemeal request-by-request basis.
- (Recommendation 6)

UNRAVELING THE LEGISLATIVE, ADMINISTRATIVE AND QUASI-JUDICIAL FUNCTIONS

GENERAL OBJECTIVES

- To clearly establish the proper distinction between legislative, administrative and quasi-judicial functions as they pertain to planning and zoning matters.
- To prevent improper deviations from the land use plan and standards established by the General Plan and the Zoning Code.

The separation of powers concept of government assures all citizens fair and equal treatment before the law. The legislative branch establishes the law; the administrative branch applies and enforces the law; and the quasi-judicial branch interprets the law, makes findings of fact and determines equities under Charter and ordinance provisions.

With regard to planning and zoning, separation of powers is essential. The legislative body must clearly set forth the objectives, conditions and standards of the zoning regulations. The administrative agencies must apply the law equitably, and the quasi-judicial bodies must adjudicate on the basis of the law itself, not according to their own preferences.

In Los Angeles, the separation of powers has become blurred in the implementation of the zoning regulations. Legislative powers are properly and legally a function only of the City Council but sometimes in effect have been assumed by the Board of Zoning Adjustment. The City Planning Commission, City Planning Department, Office of Zoning Administration, Board of Zoning Adjustment and City Council all exercise some administrative powers. And quasi-judicial powers are found in the Office of Zoning Administration, Board of Zoning Adjustment and the City Council. This duplication of functions results in much uncertainty and confusion.

Most of the problems stem from deficiencies in the Zoning Code and Charter. Both documents contain ambiguities. They create confusion among agencies by providing for different agencies to make similar types of

interpretations and decisions. (See the figure entitled "Present Assignments.") Discretion in decision-making is allowed without supplying adequate guiding criteria and standards.

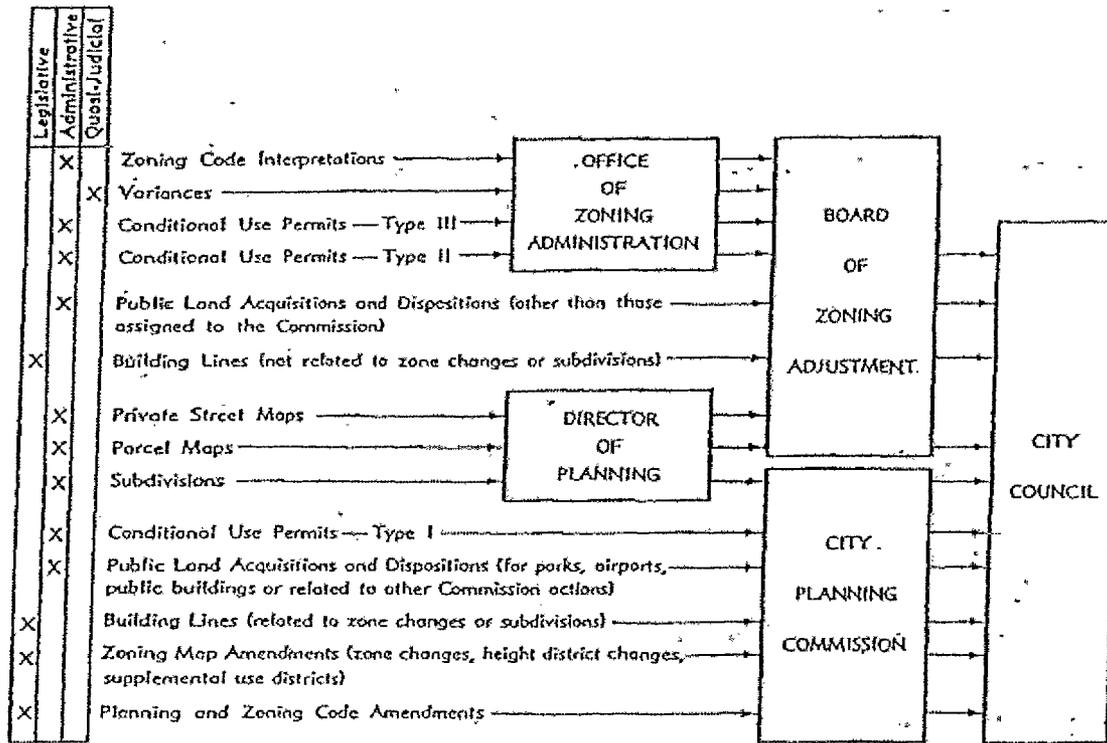
The legislative body should establish adequate and stable standards and thus prevent usurpation of legislative authority by administrative and quasi-judicial agencies. (See the figure "Proposed Assignments.")

"Q" ZONE

An improper assignment of functions is illustrated by the proposed "Q"-qualified zone ordinance. Under the provisions of this proposal, the legislative body would be assuming administrative and quasi-judicial powers and exercising them on a case-by-case basis.

The "Q" zone has been proposed because of deficiencies in the existing regulations. At present, incompatible uses are permitted within the same zoning classifications. In rezoning cases, proposals for desirable developments are made but there is difficulty in insuring that these proposals are carried out. The use of the proposed "Q" zone would permit the City Council to grant a rezoning for a specific use subject to individually tailored regulations.

The purpose of this proposal is good, but the Committee believes the means proposed are unsound. The "Q" zone is undesirable because it (1) circumvents the necessity of following uniform standards, (2) does not correct the deficiencies in the existing regulations, (3) in effect would create a separate zoning classification for each parcel of property to which it is applied, (4) would authorize a new form of spot zoning, and (5) would permit



Present Assignments for Determination of Planning and Zoning Matters

discriminatory action. The intended result can be accomplished in a proper way by providing stable and uniform guidelines for each type of use in each zone. This is the essence of the revised conditional use permit concept recommended in the report.

Recommendation

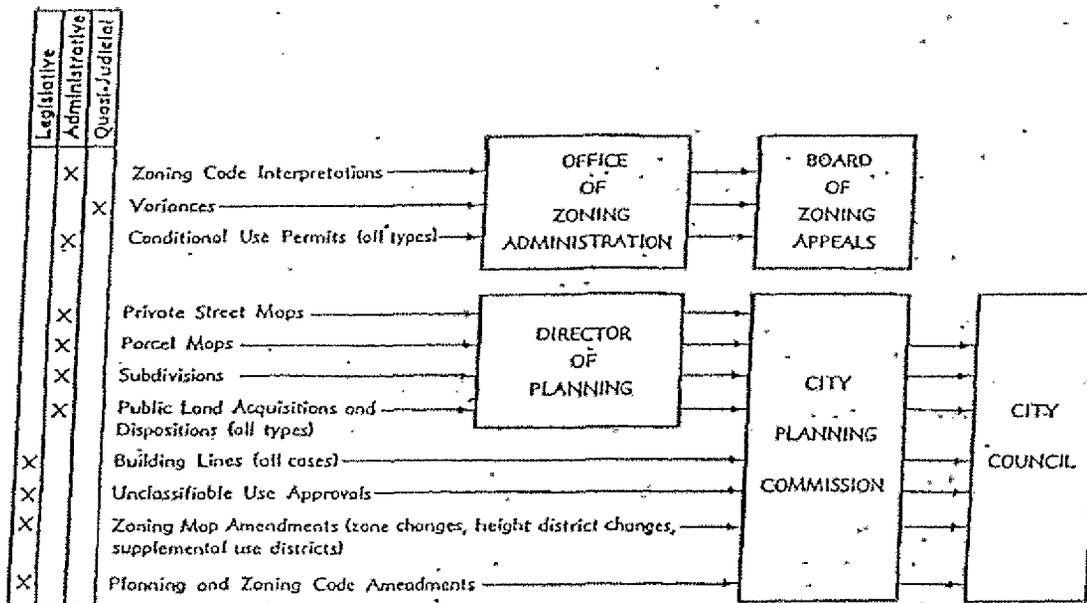
- Expand and clarify the provisions for conditional use permits to better accomplish the intended purpose of the "Q"-qualified zone concept. (Recommendation 10)

CONDITIONAL USE PERMITS

The Zoning Code intentionally provides for the exercise of administrative discretion under specified circumstances, as in the case of conditional use permits. The conditional use permit procedure is applied to certain

types of public service and other unusual land uses for which compatibility with surrounding land use is dependent upon particular site conditions. These uses are neither prohibited nor permitted automatically in designated zones, but may be considered on a case-by-case basis. At present there are no codified standards for the approval and control of such uses. The danger of improper discrimination is apparent.

Another problem is that the jurisdiction for consideration of conditional use permits is divided. For some classes of use determinations are made by the City Planning Commission with appeal to the City Council. However, most are determined by the Office of Zoning Administration with appeal to the Board of Zoning Adjustment; but of the latter group some types may be appealed further to the City Council while other types are not subject to such appeal.



Proposed Assignments for Determination of Planning and Zoning Matters

The Committee finds that the Board of Zoning Adjustment has too frequently reversed determinations of the Zoning Administrators on conditional use cases, and that many of these actions by the Board have constituted a usurpation of legislative and administrative authority.

Recommendations

- Amend the Zoning Code to establish uniform regulations and criteria for conditional uses within designated zoning classifications. Assign consideration and determination of such uses to the Office of Zoning Administration as matters of administrative and quasi-judicial interpretation. (Recommendation 7)
- Treat planned developments as conditional uses with uniform conditions specified in the Zoning Code. (Recommendation 9)
- Provide for individual legislative action on certain "unclassifiable" uses such as airports and universities, which because of unusual characteristics can-

not be suitably classified by zone. (Recommendation 8)

QUASI-JUDICIAL FUNCTIONS

The Office of Zoning Administration and the Board of Zoning Adjustment are named by the City Charter as the agencies to act upon variances—a quasi-judicial device intended to assure equal treatment under conditions which cannot be identified in advance in the adopted regulations. Variances are properly used to modify the application of zoning laws in order to bring the privileges of a particular piece of property to a parity with other similarly located and classified properties, but without granting special privileges.

The policies of the two responsible agencies have differed. The Office of Zoning Administration (which has original jurisdiction in all variance cases) has consistently made specific and pertinent findings for each case. The Board of Zoning Adjustment (which is the appeal body for variances) has sometimes ignored the findings of the Zoning Administrators and has failed to make its own adequate findings when reversing Zoning Administrators' decisions:

Also, the Board of Zoning Adjustment has acquired a mixture of unrelated powers. Basically it is an appellate body. But it has had delegated to it certain administrative functions. And in many cases it has developed its own standards rather than using those established by the Zoning Code, thus in effect making legislative determinations which the Board does not have authority to do. This mixing of functions makes it difficult for the Board to give adequate recognition to its basic quasi-judicial function as intended in the original Charter provisions.

Recommendations:

- Amend the City Charter and Zoning Code to set forth more clearly the re-

quirements for granting variances and require that the appeal body adhere to these requirements.

(Recommendation 12)

- By Charter amendment, change the name of the Board of Zoning Adjustment to the Board of Zoning Appeals and limit its jurisdiction to appeals from decisions of Zoning Administrators, with no other administrative functions assigned to it.

(Recommendation 15)

The Committee's recommendations for handling zoning cases are illustrated by the figure entitled "Types of Zoning Cases."

Function	Type of Zoning Case	Decision-Making Agency		Issue Involved
		Initial Consideration	Final or Appeal Agency	
Legislative	Zoning Map Change Unclassifiable Use Approval Supplemental Use District	City Planning Commission	City Council	What regulations should be applied in various districts to serve the community interest and carry out the General Plan?
Administrative	Conditional Use Permit	Office of Zoning Administration	Board of Zoning Appeals	What is the correct application of the law to the property involved?
Quasi-Judicial	Variance	Office of Zoning Administration	Board of Zoning Appeals	What adjustment of the general regulations is necessary to treat an individual property fairly and as intended by the law?

Types of Zoning Cases (as Recommended)

INSURING FAIR, UNDERSTANDABLE AND EFFECTIVE PROCEDURES

GENERAL OBJECTIVE

To maintain procedures which guarantee due process and equal treatment, which are simple and easily understood, and which lead to decisions in accord with legislative intent and policies.

Zoning issues involve both individual rights and community interests. As a safeguard for maintaining balance between these interests, due process should be assured by recognizing the right of petition, the right of notice, the right of public hearing, the need for competent technical and professional analysis, the need for sound judgment, the necessity to reach timely decisions and the right of appeal. Sound and logical procedure is needed for all three types of governmental action—legislative, administrative and quasi-judicial.

PROCEDURES

At present the procedural requirements for each type of zoning case are treated separately in different parts of the Zoning Code and differ in detail because of past piecemeal amendment of the Code. Some provisions relating to time limits and appeals are contained in still other sections of the Code.

There are currently fifteen different forms used for filing various types of zoning applications and appeals. The rules for submittal of applications—including forms, information required, eligibility to apply and the need for affidavits—are determined by three different agencies.

Notification methods are not entirely adequate. Hearings on applications are announced by mail to all property owners within 300 feet of the subject property but sometimes these notices are received too late for action, are difficult to understand, and do not reach all parties who properly have an interest in the matters being considered. Notices are also published as legal advertising in a newspaper of general circulation but these are not read by most citizens and again the descriptions may be difficult to understand.

The manner of conducting public hearings has been criticized. Proceedings are dif-

ficult for the layman to follow. Full information is not always disclosed at the original hearing, and unverified information may be received. Sometimes both sides in a case have not been given equal opportunity to present their points of view.

Recommendations

- Amend the Municipal Code to incorporate, in one section, simplified requirements governing
 - Applications
 - Notification
 - Hearings
 - Time limits
 - Appealsfor all types of planning and zoning cases.
(Recommendation 16)
- Provide timely and effective notice of hearings to interested parties through
 - Improvement of property ownership and mailing address records by using data processing procedures
(Recommendation 17)
 - Establishment of a subscription service for parties not otherwise notified.
(Recommendation 18)
- Require testimony to be under oath at all zoning hearings.
(Recommendation 19)

FINDINGS IN ZONING CASES

Decisions of governmental bodies on planning and zoning matters should be based upon evidence presented. The decisions and reasoning involved should be subject to examination, appraisal and appeal.

Written findings should serve (1) for purposes of analysis and evaluation of evidence, (2) as an explanation to the public of the reasons for decisions, and (3) as a basis for appeal.

In Los Angeles findings on zoning appeals have been too often confined to generalities and vague or nebulous conclusions.

Recommendation

- Amend the Charter and the Zoning Code to require written findings based on evidence presented and showing conformance or nonconformance to required criteria. Decisions must be based on these findings. (Recommendation 21)

APEALS

Appeal proceedings should be designed to correct possible errors in decisions. They are not intended to duplicate the original proceedings, nor should they expand original hearings by receiving new or additional evidence. Appeals should not be decided by using different policies and standards than those prescribed for the agencies possessing original jurisdiction. The Committee found that appeals have been granted in disregard of these principles.

Recommendation

- Standardize zoning appeal procedures to include

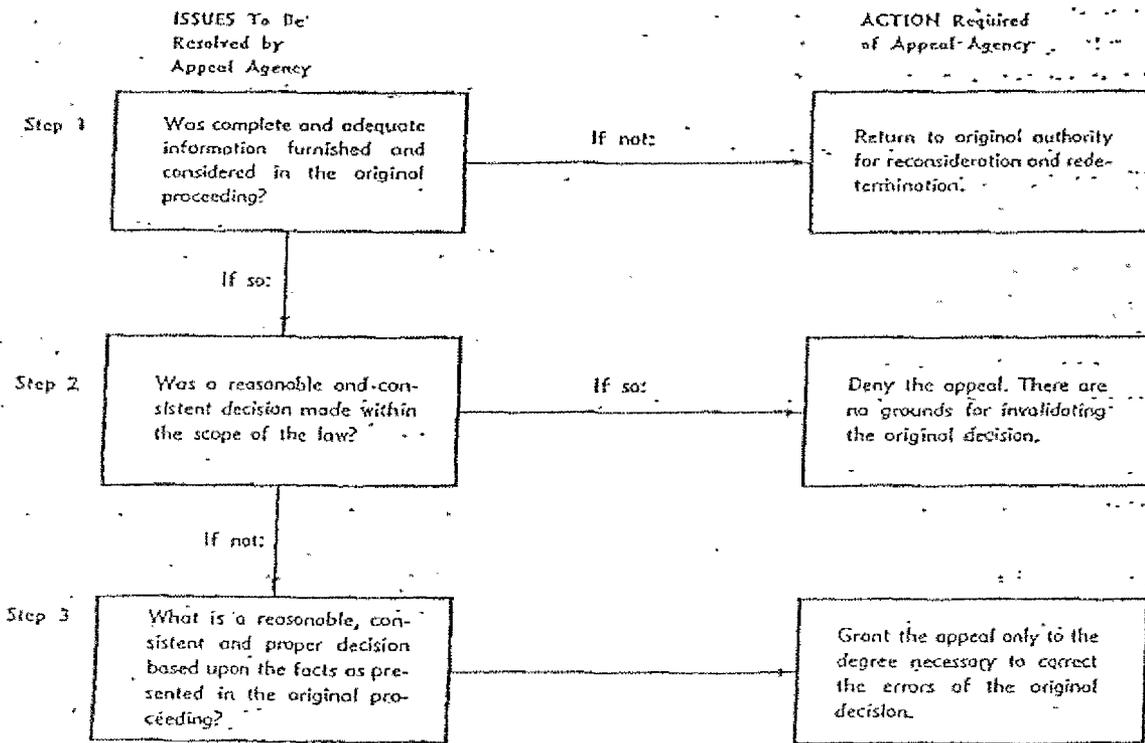
- A longer time to file appeals so that they may be more carefully prepared.

Requiring specific showing wherein the original findings and determination are not supported by the facts.

Consideration of appeals only on the record of the original hearing and determination

A requirement that reversals be based only on specific findings of error in the original determination. (Recommendation 22)

To reduce apparent inconsistencies in granting appeals, the procedure illustrated by the figure entitled "Guide for Recommended Appeal Procedure" is recommended by the Committee.



Guide for Recommended Appeal Procedure

RESOLVING THE PUBLIC INTEREST—A DEFINITION OF ROLES

GENERAL OBJECTIVE

To organize and define the roles of the various officials involved in the planning and zoning process in a way that leads to full recognition of the public interest.

To insure that planning and zoning procedures serve the public interest, responsibility should be distributed among (1) political representatives—Mayor and City Council, (2) a non-political "civic conscience" which should be reflected by the City Planning Commission and the Board of Zoning Appeals, and (3) the professional-technical-administrative staff of the City Planning Department under the Director of Planning and the Chief Zoning Administrator.

Alleged abuses of authority can be traced to a partial breakdown in the checks and balances among these groups and an overlapping of roles among the elected officials, citizen appointees and professional staff.

CITY PLANNING COMMISSION AND BOARD OF ZONING APPEALS

As an important advisory agency, the Planning Commission should display innovation and independent judgment and be assured of continuity as contemplated by the Charter. The Board of Zoning Appeals should play a strictly quasi-judicial role, which requires independence from both political and bureaucratic influences; the law alone should be the Board's primary guide.

Recommendations

Strengthen current provisions for

- Appointing the best qualified persons to the City Planning Commission and Board of Zoning Appeals (Recommendation 24)

- Providing appointees with specific information on the nature, scope and limitations of their roles (Recommendation 25)
- Scheduling policy review meetings on a regular basis (Recommendation 26)
- Maintaining overlapping terms of office to assure continuity by amending the Charter. (Recommendation 27)

MAYOR AND CITY COUNCIL

The Mayor and City Council are elected to provide representation of the public as a whole and to assume final legislative and policy-making responsibility.

Recommendations

Clarification and strengthening of legislative and policy-making powers have recommended in the report pertaining to

- The General Plan (Recommendations 1 and 2)
- Conditional uses (Recommendations 7 and 9)
- Unclassifiable uses. (Recommendation 8)

The Committee has recommended further that

- Matters that are legislative in character be clearly identified as such in the Charter and Code and therefore be adopted by ordinance with the right of veto by the Mayor. (Recommendation 29)

PROTECTING THE PUBLIC INTEREST

GENERAL OBJECTIVE.

To insure that the broad public interest is fully recognized and to insure that official acts are not improperly influenced by special or private interests.

PUBLIC INFORMATION

Planning and zoning matters are often complex both as to the objectives sought and the factors involved in making decisions. It is difficult for the general public to understand these complexities and thus these matters are susceptible to possible influence by special interests.

To protect against this, citizens should be aware of the General Plan, zoning pattern and other programs affecting their area, should understand the basic principles and procedures relating to these matters and should know where further information is available so that effective action can be taken when changes are proposed.

Recommendation

- Strengthen the City's public information program concerning planning and zoning through

Clear explanation of adopted plans, policies and regulations

Capable personnel in public contact positions

Branch office services

Printed explanation of public hearing procedures.

(Recommendation 30)

CODE OF ETHICS

Maintaining high ethical standards in planning and zoning requires clearly written laws and rules of procedure and the highest degree of integrity in Commission and Board appointees. A code of ethics would provide a useful guide and regulatory measures to supplement the above essential requirements.

Recommendation

- Devise and adopt a code of ethics for City officials involved in planning and zoning matters.
(Recommendation 31)

CONFLICT OF INTEREST

The intent of the Charter and State law is that City officials not act upon matters in which they have a personal or private interest. However, it is difficult to establish a suitable legal definition of conflict of interest together with a means of enforcing it.

Recommendation

- Amend the City Charter and Municipal Code to strengthen requirements that City Planning Commissioners and members of the Board of Zoning Adjustment declare any conflicts of interest:

Require such declaration prior to becoming involved in each planning or zoning matter

Extend the definition of conflicts to personal or private interests not now covered under the City Charter and State law.

(Recommendation 32)

PRIVATE COMMUNICATIONS

Existing State law prohibits two or more members of a public body from reaching a decision in secret but does not specifically prohibit an individual Commission or Board member from privately conferring with interested parties.

Recommendation

- By ordinance and Charter amendment, prohibit private communications between interested parties and members of the Planning Commission or Board of Zoning Appeals concerning any matter pending before the Commission or Board.

(Recommendation 33)

CAMPAIGN CONTRIBUTIONS

Campaign contributions to candidates for local office must now be publicly reported only if made directly to the candidate and then only the total amount of all contributions is

required to be reported. At present contributions need not be reported if they are made to independent committees, campaign management firms or other assisting organizations.

Recommendation

- By ordinance and Charter amendment, supplement the present requirements for reporting of campaign contributions by requiring

Itemized lists of donors and amounts from each donor

Reporting of indirect contributions made to independent committees or other organizations.

(Recommendation 35)

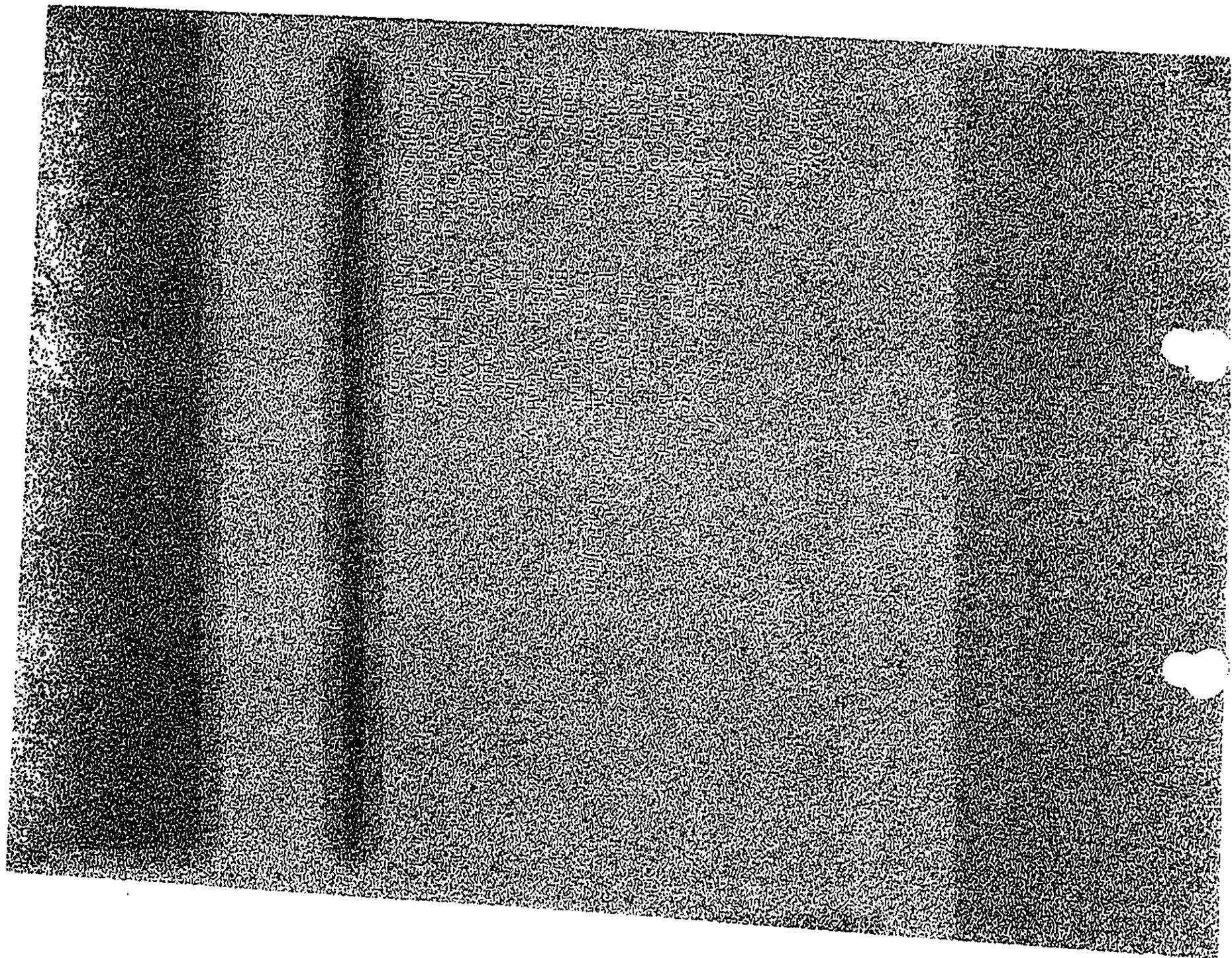
Exhibit 10

DOMINIC M. JEROME
TRAINING AND ZORING IN LOS ANGELES

FINANCIAL REPORT

FINANCIAL REPORT OF ZORING TRAINING AND ZORING
AND REPORT TO THE BOARD OF DIRECTORS

FOR THE YEAR ENDING 1970



*MEMBERS OF THE CITIZENS COMMITTEE
ON ZONING PRACTICES AND PROCEDURES*

Fletcher Bowron,* Chairman

Mayor, City of Los Angeles, 1938-1953

Judge, Superior Court, 1926-1938, 1956-1962

Rudolph Ostengaard, Vice Chairman

Vice President, United California Bank

Dr. John C. Bollens

Professor of Political Science, University of California, Los Angeles

Director, Study of Los Angeles City Charter and Government, 1962-1963

J. Robert King

President, King Nutronics Corporation, aerospace research and development

Mrs. Robert Kingsley

Member, 1955 and 1966 Los Angeles County Grand Juries

Volunteer, Legal Aid Foundation of Los Angeles, 1952-1968

Director, Women's Division, Los Angeles Chamber of Commerce, 1951-1959

Averill H. Munger

President, Munger Oil Information Service

Foreman, 1966 Los Angeles County Grand Jury

Gordon Whitnall

Planning Consultant

Instructor of Planning, University of Southern California, 1921 to present

First Director of Planning, City of Los Angeles, 1920-1930

*Deceased

Copies of the Committee's first report dated July 1968
and of this final report available while the supply lasts from:

City Administrative Officer

Room 380, City Hall, Los Angeles, California 90012

May 1969

Honorable Sam Yorty, Mayor
Honorable Council
of the City of Los Angeles

Council File No. 132,460

Gentlemen:

We are pleased to submit our final report on planning and zoning policies and practices in Los Angeles. Our first report issued in July, 1968 gave basic recommendations. This report contains specific proposals for legislative action—by vote of the people on Charter amendments and by action of the City Council on ordinances. In addition, non-legislative actions required to carry out our recommendations are summarized.

The proposed legislative actions can only create an improved framework; successful implementation depends upon the will of the people involved—elected and appointed officials, civil servants and the citizenry. We note that some improvements in procedure and approach are already under way. However, continuing attention by all parties concerned will be required to achieve the objectives of our recommendations and of the proposed legislation.

Upon the issuance of our first report, the City Council referred it to the City Planning Commission for its consideration. Two joint meetings of the Planning Commission and the Citizens Committee were held to discuss our recommendations. There was found to be general agreement between the Citizens Committee and the Commission on 21 of our 36 recommendations, minor disagreement on five, and basic disagreement on six of them. The Commission took no position on the remaining four.

During the Fall of 1968 we prepared proposed revisions to the city planning provisions of the Charter and, because of the time schedule required to place matters on the municipal election ballot in the Spring of 1969, we submitted a tentative draft of our revisions to the Mayor and Council on December 3, 1968. A more comprehensive draft was submitted on December 30, 1968, and a complete draft with explanatory comments was presented on January 21, 1969. The Planning Commission also sent to the Council its recommendations for revisions to our draft. The Planning and Charter and Administrative Code Committees of the City Council held joint hearings on these proposals and submitted their report to the Council containing further changes on January 30, 1969. Subsequently the Council as a whole conducted a hearing and deliberated at length on the proposals. After further altering the Charter proposals, the Council acted to place a Charter amendment on the ballot at the May 27, 1969 general municipal election.

The Charter amendment to be considered by the voters differs from our proposals as contained in this report in the following major respects:

1. The requirement that there be specific findings of conformance to the General Plan in approving zone changes and other plan implementation matters has been weakened by (a) permitting nonconforming actions to be taken if reasons for such action are stated, and (b) referring only to "findings" rather than "specific findings."
2. The proposed requirement that changes in the zoning map be considered on an area-by-area basis has been rejected.
3. The placing of all conditional use and planned development approvals under the jurisdiction of the Office of Zoning Administration and Board of Zoning Appeals was rejected. The Council-adopted version would continue the present situation which allows the jurisdiction over these matters to be assigned by ordinance. The Council expressed its desire to retain for itself final authority over most if not all conditional use decisions.

4. The proposed jurisdiction of the Board of Zoning Appeals as a strictly quasi-judicial appeal body has been weakened by (a) permitting appeals from agencies other than the Office of Zoning Administration to be assigned to the Board and (b) permitting further appeals on land use variances to be taken to the City Council in those cases where the Board has granted a variance.

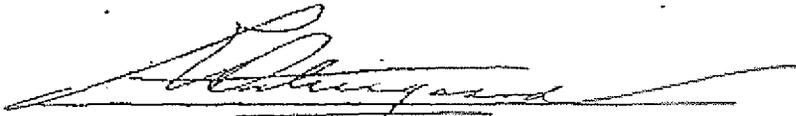
While we are seriously concerned over the weakening effect of these changes, we support the Charter amendment as it will appear on the May 1969 ballot in the belief that it will be an improvement over the present provisions. Under the Charter amendment approved by the Council it will still be possible to carry out our remaining recommendations by ordinance. We urge the Council to consider such ordinances.

We have also prepared suggestions for Charter and ordinance provisions concerning ethics, conflicts of interest, campaign contributions and private communications. These were submitted to the Mayor and Council on December 4, 1968. The Governmental Efficiency Committee of the Council is now considering these suggestions.

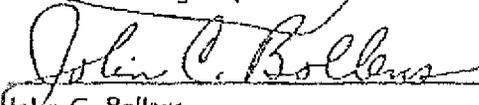
In rendering this final report, we are gratified that the recommendations are unanimously supported by the members of the Citizens Committee, representing as we do, a variety of backgrounds and viewpoints. Although serving as a lay citizens group, it may be pointed out that among those on the Committee and serving it there is represented considerable experience related to municipal planning and government. The Committee also wishes to acknowledge the invaluable assistance of Mr. Richard W. Roether, Planning Consultant.

In addition to recommending immediate Charter amendments, we are providing copies of our proposals to the Los Angeles City Charter Commission for its consideration in connection with its study of the entire City Charter.

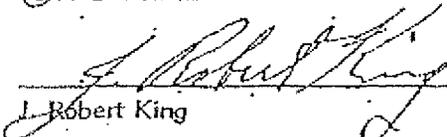
The Citizens Committee on
Zoning Practices and Procedures



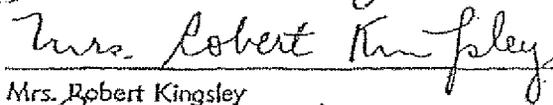
Rudolph Ustengaard, Chairman



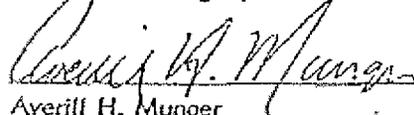
John C. Bollers



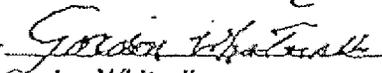
J. Robert King



Mrs. Robert Kingsley



Averill H. Munger



Gordon Whitnall

The Committee dedicates this Final Report to the memory of Fletcher Bowron and Brysis N. Whitnall who made major contributions to the concepts and principles embodied in the Committee's work.

FLETCHER BOWRON

August 13, 1887 - September 11, 1968

Mayor, City of Los Angeles, 1938-1953

Judge, Superior Court, 1926-1938, 1956-1962

Director, Los Angeles Metropolitan History Project, 1962-1968

Chairman, Citizens Committee on Zoning Practices and Procedures, 1967-1968

BRY SIS N. WHITNALL

August 20, 1902 - February 7, 1969

Executive Secretary, Town Hall, 1935-1941.

Instructor in Planning, University of Southern California, 1956-1969

Member, American Institute of Planners,
American Society of Planning Officials,
American Society of Consulting Planners

Planning Consultant, 1941-1969

Volunteer technical assistant to the Citizens Committee on Zoning Practices and Procedures 1967-1969

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INTRODUCTION

This is the final report of the Citizens Committee on Zoning Practices and Procedures. Our first report, issued in July, 1968, contains 36 general recommendations. This final report contains specific proposals for action in the form of Charter amendments, ordinances, and administrative and policy actions.

The Citizens Committee was appointed by the Mayor and the President of the City Council in March 1967 in response to a recommendation of the 1966 County Grand Jury that an in-depth study of the field of zoning administration be undertaken. After initial discussion with the Mayor and members of the City Council, we set forth the objectives of our study as follows:

The Committee considers that the reasons for its existence are to inquire into the entire subject of zoning in the City of Los Angeles, including the adequacy or inadequacy of applicable law, policies and practices whether legally sanctioned or not; to identify and reveal, if possible, the original purposes that motivated establishing the practice of zoning; to determine, if possible, whether these purposes are being realized or not and, if not, why; and, finally, to recommend such changes in law or practice as it believes necessary to justify public confidence in the practice of zoning, but equally important, to make available to the public an understanding of the subject so clear and comprehensible as to make it increasingly difficult for

anyone, serving in any capacity, to deviate from proper and effective policies and practices.

The Mayor and Councilmen made it clear that, in addition to the problems mentioned in the Grand Jury report, we should feel free to look into any aspect of planning and zoning in Los Angeles. It was also suggested that we study the problems of ethics, conflict of interest and campaign contributions. Certain files of the City Council containing various proposals on these subjects were transmitted to us for consideration.

The emphasis in this report is upon changes in the City Charter to establish a stronger legal base for sound planning and zoning processes. However, our specific proposals for Charter amendments are supplemented by outlines of ordinance provisions required to implement the proposed new Charter provisions as well as to carry out recommendations which do not require Charter revision.

Our proposals for Charter and ordinance provisions are divided into two main categories—those dealing with the city planning function itself (Chapters 1 and 2); and those dealing with the problems of ethics and conflict of interest, which we have grouped under the heading "conduct in office" (Chapter 3). Although our immediate concern with conduct in office is in relation to planning and zoning activities, it is obvious that legislation on this subject has implications relating to the conduct of all public business.

Another of our recommendations deals with the terms of office on City commissions and boards. Since this involves amendment to a separate section of the Charter, we discuss the proposal separately in Chapter 4.

Finally, a number of our recommendations require administrative or policy actions either as a supplement to legislative action or as a matter not involving legislative action. These proposed actions are summarized in Chapter 5.

In preparing our Charter proposals on city planning, we have carefully considered suggestions made by the City Planning Commission and discussions held by the Planning and Charter and Administrative Code Committees of the Council. We concur in many of the suggestions and these are incorporated in our proposal.

The cold, informal language of the recommended Charter changes do not, on their face, reveal the real significance of our assignment and what we discovered in carrying out that assignment. We were given the mandate to inquire into the entire functioning of the City's planning program and to discover, if possible, wherein present practices and procedures have permitted or encouraged the circumstances which attracted the attention of the Grand Jury in 1966 and which led to the continuing interest of subsequent Grand Juries in certain zoning matters in Los Angeles.

We find three major areas of the planning program, as now constituted, which account for most of the important criticisms brought to our attention.

CONDITIONAL USES

The first of these relates to the concept of and the manner of dealing with conditional use permits. There is a fundamental weakness in the present practice of processing certain types of conditional use permits through the Planning Commission and the City Council. This is true notwithstanding the expressed desire by some that matters of this kind should be appealable to the elected representatives of the public. There is and should be no

higher authority in the structure of local government than the City Council, but the dignity and responsibility of that body demand that basic policies pertaining to conditional use permits be defined and unequivocally established.

One of our most significant findings is that such clearly defined policies do not now exist and, as a consequence, the present practice flagrantly violates the basic principles of sound, effective zoning. The result is that each individual conditional use permit represents a special grant of privilege, often unrelated to previous cases, and probably unrelated to future cases. In many instances the granting of such permits produces a breakdown in the integrity of the zoning pattern. In these cases, where conditional use permits are authorized by action of the legislative body, we found some of the most flagrant examples of what amounts to spot zoning, a situation consistently frowned upon by the courts. It should be the end results of this practice by which the practice is judged, and our judgment is that the manner in which conditional use permits have been dealt with largely defeats the basic and legitimate purpose of zoning.

Not only does this practice destroy the integrity of zoning, but the economic advantages that accrue to owners of property granted special privileges through conditional use permits offer incentive for the employment of persuasion in questionable forms.

We strongly believe that the only workable and just solution to the problem calls, first, for the Planning Commission and City Council to establish the basic policies, criteria and standards governing all conditional uses by means of appropriate amendments to the Zoning Code. The function of granting all conditional use permits should then be delegated to the Office of Zoning Administration which has a proven record of consistent and fair administration of such matters. In addition, the Board of Zoning Appeals, which under our further recommendations would operate as a truly quasi-judicial appeal agency,

will ensure that the Office of Zoning Administration operates within Council-prescribed policies.

Related to our recommendations on conditional uses is the recommendation that a few, special types of land use which cannot be classified according to zones, be designated as "unclassifiable" and made subject to individual legislative authorization by ordinance. Great care should be taken not to circumvent the distinction between unclassifiable uses and conditional uses; uses should not be listed as unclassifiable when in fact they can be adequately classified by zone and treated as conditional uses within the appropriate zoning classifications.

ZONING ADMINISTRATION APPEALS

A second area of concern relates to the Office of Zoning Administration and the Board of Zoning Appeals. The original purpose of these two related agencies, as provided for in a 1941 Charter amendment, was to establish a quasi-judicial process for making essential adjustments under the zoning ordinance when the literal application of the zoning regulations proves discriminatory and, to some extent, confiscatory. Until 1963 the process worked as perfectly as human practices permit, and attained an enviable nationwide reputation for excellence in dealing with the matters involved. In 1963, by means of another Charter amendment, the status of the Board of Appeals was changed. It was renamed the Board of Zoning Adjustment and delegated certain additional administrative and advisory duties assertedly to relieve the burden on the Planning Commission. But this change violated a basic concept of good organization and administration in that it divided both the authority and the responsibility in certain matters. It is an axiom in the field of administrative organization in private business, government and the military, that when authority is divided, authority is lost, and when responsibility is divided there is no responsibility.

Many difficulties resulted from the operation of the Board of Zoning Adjustment

because, in practice, the Board abandoned the basic principle of considering appeals on the basis of the record of proceedings before the Zoning Administrators. Our inquiries revealed that the Board's prevalent practice was to try each case *de novo*; that is without reference to the previous proceedings in the case. In some cases the result was the granting of appeals overriding not only the findings and decision of a Zoning Administrator, but also overriding previous denials by both the Planning Commission and the City Council of requests for zone changes which would have produced the same result. There are numerous instances in which the action of the Board of Zoning Adjustment authorized the use of a given piece of property for an activity specifically prohibited in the zone in which the property was located.

Our recommendation is to establish the Board of Zoning Appeals in its original form, and with its original duties and authority, which is to deal exclusively with appellate matters originating with the Zoning Administrators, but retaining the present five Board members rather than the original three.

It should be pointed out that the present Board of Adjustment appears to be sincerely endeavoring to function as that Board should function. The significance of our recommendation lies in the fact that the proposed reconstituted Board of Appeals would serve exclusively in a quasi-judicial capacity, with the additional provision that, just as in the normal judicial process, an appeal must be considered on the basis of evidence of record emanating from the lower court—which in this case is the Office of Zoning Administration.

We do not believe that creating another level of appeal from the Board to the City Council would be a satisfactory remedy for improper Board action. This would place the Council in a quasi-judicial position—adjudicating the individual application of its own laws; and would increase the potential for discriminatory actions. The additional appeal procedure would create an unwarranted additional uncertainty and procedural burden for both applicants and interested citizens.

SPECIFIC PLANS

The third area of particular interest has to do with the broader planning program as distinguished from zoning. We discovered that under the present Charter provisions the City of Los Angeles confuses the two basic tools involved in carrying on a planning program. The first tool is what the present Charter refers to as the Master Plan. It should be an overall policy statement and guide for City development, not a set of detailed regulations. We recommend that the name "Master Plan" be changed to the more descriptive and generally accepted title of "General Plan." We further recommend that the Charter adequately define the purposes, content, and procedures relating to the General Plan.

The other tool, essential to the effectuating of the General Plan, is known under California law as the specific plan. But the present Charter refers only to "regulatory measures," and in rather vague language implies that such measures can be considered as part of the Master or General Plan, a concept contrary to sound and accepted city planning practice.

The Los Angeles Charter does refer to one type of specific plan, namely, the zoning ordinance. Technically, the zoning map, which is a part of the zoning ordinance, is the specific land use plan of the City. It is a regulatory ordinance and therefore controlling.

We discovered considerable confusion concerning the proper relationship between the General Plan and specific plans, and their respective functions. Without the authorization and use of specific plans there is no means of assuring the effectuation of the General Plan which is and should be outlined only in general terms. Therefore, we recommend that the various forms of specific plans be clearly identified and authorized in the Charter.

* * *

In making our recommendations for action, we believe the following fundamental issues are at stake:

1. **Environmental Quality.** The health, safety, convenience and beauty of our urban environment depends upon the net effect of a vast array of public and private decisions regarding the development and use of land. The kind of environment each citizen would prefer can be achieved by mutual support of policies, plans, procedures and regulations designed to serve the community as a whole. It can be largely destroyed by a relatively few individual actions which disregard the interest of the community. We believe that our recommendations will help to assert the community interest while protecting individual rights.

2. **Justice and Equality Before the Law.** At the very heart of our constitutional system is the legal theory that no agency of government has the right to apply laws unequally or unfairly among those affected. But in zoning law, the tendency has grown to apply regulations on an individualized, parcel-by-parcel, case-by-case basis by means of spot zone changes, conditional use permits, variances and other devices. Strong safeguards must be maintained to insure that these devices are used solely in the public interest and without favoritism or discrimination. We believe this can best be accomplished by making a clear distinction between the legislative, administrative and quasi-judicial functions involved in zoning; with recognized checks and balances among these functions.

3. **Effective Management of Public Affairs.** In a city of three million people and one million parcels of real estate, municipal management is obviously a large and complex enterprise. Effective management of this enterprise requires that the top level of government—the Mayor and City Council—concentrate on overall policy and legislation, and that individual decisions regarding the application of policy and law to specific situations be delegated and decentralized. We believe the Mayor and Council cannot adequately deal with the serious and growing problems of urban development if they continue to be burdened with making a large number of individual administrative and quasi-judicial decisions in response to each property owners petition. At the same time, it is essential that

there be an effective system by which the results of administrative and quasi-judicial actions are monitored so that the Mayor and Council can insure that their policies are being carried out and can make adjustments in guiding policy and legislation as necessary to achieve desired objectives.

4. **Private Ownership of Property.** To a large extent, ownership is the right of control. The right of the public to limit the use of property for the good of the community is well established, but when governmental control over the use of property is determined on an individual basis rather than in keeping with a community-wide policy the institution of private property itself is placed under attack. If there is nothing in the law upon which the individual owner can rely as to what he may or may not do with his property, but rather must petition for an individual determination, then the concept of private ownership is substantially invalidated—the owner becomes merely a tenant.

One of our critical findings is that a certain perspective is lacking on the part of both developers and officials in viewing the

zoning process. Zoning has largely but improperly come to be viewed as something to be changed, to be bargained over and to be influenced, sometimes legitimately, sometimes illegitimately. Aside from the injustices inherent in such a practice, this approach to zoning can provide little more than an impediment to the economic forces of urban development. It hardly provides a means by which the community can effectively shape its future through basic political decisions designed to supplement and guide rather than impede economic forces.

If adopted, we believe the proposals contained in this report will permit the Mayor and Council to continuously exercise effective policy and regulatory control over City development through the General Plan, the Zoning Code and other specific plans. Fair and consistent application of the zoning regulations to unusual situations can best be accomplished by the Office of Zoning Administration, and should there be error or abuse in the decisions of this office, a reconstituted Board of Zoning Appeals will provide a readily available "court of appeal."

CHAPTER 1

AMENDMENTS TO CHARTER PROVISIONS

ON CITY PLANNING

This chapter presents our recommendations for changes in the City Charter relating to planning and zoning.

The material presented consists of Charter provisions together with explanatory comments. The Charter text is indented and identified by the symbol # at the left margin. Within the Charter text, proposed additions to the existing provisions are in boldface type and proposed deletions are shown by strikeout type.

The complete text of the Charter provisions, with the recommended changes indicated in the same manner, is repeated in continuous form in Appendix A. A cross-reference between the present and proposed Charter provisions is provided in Appendix C.

GENERAL COMMENTS

Article VIII of the City Charter is presently entitled "Department of City Planning" and consists of Sections 94 through 99½. These are the only Charter provisions which deal exclusively with city planning matters. However, it is Section 70 which actually creates the Planning Department (and Commission) along with other departments, and Section 2(11) (c) provides the basic authorization for zoning legislation. All of the planning and zoning Charter changes proposed by the Citizens Committee can be accommodated within Article VIII.

ARTICLE VIII

~~DEPARTMENT OF CITY PLANNING~~

TITLE

It is suggested that the title for Article VIII be simply "City Planning" rather than "Department of City Planning" in order to put the emphasis on the function rather than the organization. In fact the City Council and other City agencies are involved in these provisions. In particular, the General Plan should be thought of as a basic City document, and the planning process as involving the entire City government, rather than either being solely within the purview of one department.

NUMBERING

Through additions over the years, several of the Charter sections have fractional numbers—94½, 99¼, etc. In this revision it is proposed to eliminate these fractional numbers by consolidating material relating to the same subject and by adopting decimal numbering where necessary. Subject titles have been added for convenience.

POWERS AND DUTIES OF THE PLANNING DEPARTMENT

Sec. 94. Department of City Planning

As used in the Charter, "Department of City Planning" includes the City Planning Commission together with the Director of Planning and the Department staff. The Office of Zoning Administration and the Board

of Zoning Appeals (Adjustment) are also presumed to be part of the Department.

The Department of City Planning shall have and exercise all the powers and duties which are ~~now or may hereafter be provided in this Charter, and, in addition thereto, such other powers, including those granted to or imposed upon City Planning Commissions or Departments by State law, and, in addition thereto, such powers as are provided approved by ordinance.~~

The wording of this general statement of the powers and duties of the City Planning Department is clarified to avoid any conflict between City and State law and to make it clear that any provisions of State law which are not mandatory for chartered cities would only be exercised if approved by the City Council. The Planning Department is primarily a staff agency, one of whose major purposes is to provide advice concerning land development in the City. We believe that additions to the functions and workload of the Planning Department should be made, not on its own initiative, but through the proper administrative and legislative approvals of the Mayor and Council. There is always the possibility of further amendments to the State law which might prescribe policies and practices inappropriate for Los Angeles. The City should protect itself against automatically accepting such provisions by requiring that such future changes in State law shall only apply when specifically adopted by local ordinance. Failure to so provide would lead to further erosion of home rule. Therefore, we deem it important to provide for the proper local administrative and legislative jurisdiction over the program of the Department.

The State Planning and Zoning Law provisions are basically for general law cities, rather than for chartered cities although a chartered city is permitted by Sections 65700 and 65803 the option of using State law provisions, if its charter so provides. These State law provisions were developed primarily for these smaller cities as guidelines for their planning functions. In some cities, the city council is designated as the planning agency

and, therefore, the council determines whether to adopt optional features permitted by State law. In Los Angeles, the Planning Department is designated as the planning agency and, under present Charter provisions, the City Attorney states that the Planning Department might utilize powers and duties prescribed by State law, so long as not in conflict with Charter provisions, even though not specifically authorized by the Mayor and Council.

Following are some of the California Government Code sections which are related to this discussion:

Section 65302 enumerates the required elements of a general plan for general law cities. Effective July 1, 1969 a new element is added to the required elements, namely a housing element. This is to consist of standards and plans for improvement of housing and provision of adequate sites for all economic segments.

Section 65303 enumerates other elements which a city may adopt if it so chooses. This section also provides that the planning agency may adopt on its own initiative such additional elements as it wishes relating to the physical development of the city.

Section 65400 provides that the planning agency may make reports on financial matters and capital budgets. The City of Los Angeles now has a Capital Improvement Ordinance which does not contemplate such a procedure. In a large city such as Los Angeles, the Mayor and Council should determine what functions they wish the Planning Department to perform with respect to such matters.

Section 65102 states that the planning agency has the powers necessary to carry out the planning functions provided by the State law. This provision is desirable and necessary for general law cities, particularly where city councils are designated as the planning

agency; but for Los Angeles, such powers should be specifically authorized in the Charter or by ordinance approved by the Mayor and Council.

Comprehensive changes in State law since 1965 make it highly desirable for Charter Section 94 to be amended as recommended. Section 94 was originally adopted over twenty-five years ago when State law provisions were less comprehensive than at present.

~~subject, however, to the provisions of Article VIII of this Charter.~~

The present Charter wording refers only to Article VIII of the City Charter, but since other sections of the Charter also affect the functions of the Planning Department, this reference to Article VIII is unnecessarily restrictive, and should be replaced by the reference to the Charter as a whole as contained in the proposed wording above.

DIRECTOR OF PLANNING

Sec. 94½.

Sec. 95. Director of Planning

(1) The general manager of the Department of City Planning shall be known as the Director of Planning. ~~The Director of Planning~~ He shall be chosen on the basis of his administrative and technical qualifications, with special reference to his actual experience in and his knowledge of accepted practice in the field of city planning.

Charter Section 94½ has been restated as proposed Section 95(1).

Note that under present Charter Section 70(c), control and management of the Department is vested in the Director, and Section 79(b) provides that the Director shall be appointed by the Mayor. No change is proposed in these provisions of Sections 70 and 79 which apply to other departments as well as the Planning Department.

~~Sec. 95.~~

(2) The Director of Planning shall have the following powers and duties, subject to ~~supervision and direction~~ advice by the City Planning Commission as to matters of policy:

In view of the present provisions of Section 70(c) as mentioned above and our proposed provisions in Section 96 relating to the advisory role of the Planning Commission, the wording here should be changed to be consistent.

(a) With the advice of the ~~Coordinating~~ General Plan Advisory Board,

The name of the Coordinating Board was changed to Master Plan Advisory Board in 1967 by amendment of Section 95½. The name should now become the General Plan Advisory Board to correspond to the change from "Master Plan" to "General Plan" as discussed below.

he shall prepare ~~a master plan~~ the General Plan

Throughout these proposed Charter revisions the term "General Plan" has been substituted for "Master Plan" (Recommendation 1).¹ This is consistent with the present provisions of State law and with currently accepted city planning practice throughout the nation.

~~for the physical development of the City, as such term is defined by State law, in so far as such definition is applicable to the City, and from time to time extend and modify the same; and he shall prepare all maps, diagrams, charts and reports which may be necessary or advisable in the making of said master plan~~ General Plan.

The only description or definition of the Master or General Plan presently contained in the Charter is in this section. Since the subject of the General Plan is proposed to be thoroughly covered in the new Section 96.5, we

¹Recommendation numbers refer to the recommendations of the Citizens Committee as contained in its July 1968 report entitled A Program to Improve Planning and Zoning in Los Angeles.

propose that the existing description in Section 95 be deleted.

- # (b) Subject to the approval of the City Planning Commission, he shall prepare all proposed zoning regulations and requirements, establishing including the necessary districts or zones in connection therewith, and he shall prepare all maps, charts and diagrams which may be necessary or advisable in the making of such zoning regulations.

This minor clarification of wording is proposed in order to refer to the Director of Planning as preparing the zones and districts rather than establishing such districts. These districts can be established only by ordinance adopted by the City Council.

- # (c) He shall make investigations and report on the design and improvement of all proposed subdivisions of land and shall have such powers and perform such duties as are required by the Subdivision Map Act of the State of California.

(d) ~~In addition to the foregoing,~~ He shall have such additional powers and duties as may be imposed upon him by ordinance.

This editorial change is proposed merely to eliminate unnecessary words.

GENERAL PLAN ADVISORY BOARD

~~Sec. 95 1/2.~~

Sec. 95.5. General Plan Advisory Board

There is hereby created a Master-General Plan Advisory Board

The term "General Plan Advisory Board" has been substituted throughout these provisions in place of the existing term "Master Plan Advisory Board" in order to conform with the change of title from "Master Plan" to "General Plan" as referred to above in connection with Section 95(2) (a).

- # which shall be composed of the Director of Planning, the Mayor, a member of the Council designated by the President of the Council, the City Administrative Officer, the City Engineer, the Executive Director of the Housing Authority, the Executive Director of the Community Redevelopment Agency, and the general managers of each of the following departments; namely, Building and Safety, Fire, Police (or the bureaus thereof), Public Utilities and Transportation, Recreation and Parks, Traffic, Airports, Harbor, and Water and Power (or the bureaus thereof),

The General Managers of the Airports and Harbor Departments are proposed to be added to the listed members of the Board in response to a suggestion of the City Planning Commission. These officers are now members of the Board and they are concerned with important regional activities which have a significant impact upon surrounding areas and the City as a whole.

- # together with ~~such other~~ not to exceed three additional officers of the City or heads of City agencies as the Mayor may designate from time to time designate.

Each member of the Board, except as hereinafter provided, may designate a representative to act as an alternate for such member provided that the representative so designated occupies a position of the highest managerial level in the office, or department or agency below that of the member making such designation. The Mayor may designate a representative to act as his alternate provided the representative so designated is a person occupying an executive position in the Office of Mayor. In the case of the member of the Council designated by the President of the Council, the designation of a representative to act as an alternate for such member shall be made by the President of the Council.

In the case of officers of the City designated by the Mayor, the designation of the alternate shall be made by the Mayor. Only a member of the Council may be designated as an alternate by the President of the Council and only an officer of the City may be designated as an alternate for those officers of the City designated by the Mayor to serve on said Board.

A limitation is proposed to permit not more than three additional members to be appointed to the Board by the Mayor. This is also a suggestion of the City Planning Commission intended to keep the size of the Board within workable limits and to maintain stability in the representation on the Board.

Also at the suggestion of the Planning Commission revised wording is proposed to provide for the appointment to the Board of agency heads. This would permit such persons as the head of the Community Analysis Program or the Model Cities Program to participate. Under the present provision these persons might be considered as neither officers nor heads of departments and therefore ineligible for such appointment.

The Director of Planning shall be Chairman of said Board and shall be responsible for giving notice of its meetings and keeping the records thereof. Said Board shall meet at the call of either the Chairman, the Mayor, or the City Administrative Officer. When a meeting of the Board is called by the Mayor or the City Administrative Officer, such officer shall forthwith notify the Chairman of such call and he the Chairman shall give notice of the meeting to be held pursuant to said call. Two-thirds of the members of the Board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time until a quorum be present.

The function and duty of the Board shall be to advise with and assist the Director of Planning in the preparation

of the ~~master plan~~ General Plan and of amendments or changes thereof thereto; and for such purpose, the work of the Board may from time to time be assigned to committees thereof, appointed by the Chairman, for report and recommendation thereon to the Board. The Chairman, the Board and the committees thereof shall have the authority to obtain information and advice from any available source deemed suitable.

CITY PLANNING COMMISSION

#. Sec. 96. City Planning Commission

The Board of City Planning Commissioners shall be known as the "City Planning Commission." It shall serve in an advisory capacity to the Mayor and Council on all matters related to the city planning function which involve legislation or determination of policy. It shall also serve in an advisory capacity to the Director of Planning on matters of policy pertaining to the development, adoption and amendment of the General Plan and specific plans, including the zoning ordinance. It may review the findings and recommendations of the Director of Planning on these and other matters related to the city planning function and submit its own findings and recommendations thereon.

The present Charter Section 96 deals only with the name of the Commission. Our proposal adds a general statement to indicate the basic function of the Planning Commission as:

1. Advisory to both elected officials and department staff.
2. Oriented toward policy and legislation rather than toward administration, with particular emphasis on the General Plan and the Zoning Code as the two most important instruments of planning.

This addition is intended to emphasize that the basic role of the Commission is to

reflect broad-gauge lay understanding of community needs and goals, and that the Commission should be concerned primarily with the overall view and review of planning functions rather than with administrative detail.

~~Sec. 96½. The City Planning Commission shall advise the Director of Planning in the preparation of the master plan, including the preparation of zoning, land subdivision and building line regulations, and other regulatory measures related to the master plan or the physical development of the City, and shall hold all public hearings which may be required by law for the adoption, extension or modification thereof. Upon adoption by the City Planning Commission of said master plan or any part thereof, or any regulatory measure referred to above, the same shall be presented to the City Council by the Director of Planning, with the recommendations of the City Planning Commission. Upon receipt of the master plan, or any part thereof, or any such regulatory measure so adopted by the City Planning Commission, the City Council shall consider the same and may adopt such plan, or any part thereof, or any such regulatory measure as it may deem advisable.~~

The present Charter Section 96½ deals in a general way with Planning Commission responsibilities for both general planning and regulatory measures. The language is confusing since it implies that the regulatory measures are part of the Master Plan, when in fact and according to accepted practice regulatory measures are not part of the Master or General Plan. We propose that such regulatory measures, which are intended to carry out the General Plan, be identified as specific plans to be adopted by ordinance. This is provided for in our proposed Charter Sections 97.1 through 97.4.

GENERAL PLAN

One of the fundamental concerns of the Citizens Committee, as expressed in its first

report which was issued in July 1968, is the apparent confusion regarding the preparation, adoption and use of the General Plan; another concern is the insufficient recognition of the General Plan as an important City document providing the basic policy guide for City development activities.

It is, therefore, recommended that the Charter be amended "to set forth the purpose, comprehensive nature and essential procedural requirements for the development and adoption of the General Plan of the City." It is further recommended that this Charter provision be supplemented by more detailed code provisions (Recommendation 1). Proposed Charter Section 96.5 implements this recommendation.

Sec. 96.5. General Plan

The General Plan shall be a comprehensive declaration of purposes, policies and programs for the development of the City, and shall include, where applicable, diagrams, maps and text setting forth objectives, principles, standards and other features.

This proposed opening statement indicates the essential characteristics of a general plan. It must be comprehensive if it is to serve its intended coordinating function; it must include a declaration of purposes if it is to be a direction-setting document. It is a set of policy statements, not a set of regulations.

(1) Purpose. The General Plan shall serve as a basic and continuous reference in (a) planning for the development of the City, (b) developing, correlating and coordinating official regulations, controls, programs and services, and (c) attaining coordination of planning and administration by all agencies of the City government, other governmental bodies and private organizations and individuals involved in the development of the City.

The first area of confusion found by the Citizens Committee concerns the purpose and importance of the General Plan. Proposed Charter Section 96.5(1) makes it clear that

the Plan is to be an important policy document for use throughout City government, and beyond that it is to be a useful coordinating tool for the private sector and for government at other levels. The need for continuous utilization of the Plan is emphasized in the proposed Charter provision. This will require that the Plan be maintained as part of a continuing planning process.

(2) Content. The General Plan shall include the following elements:

- (a) A land use element which designates the proposed general distribution, location and extent of the uses of land, and includes a statement of the standards of population density and building intensity for the various areas covered by the General Plan.
- (b) A circulation element indicating the general location and characteristics of existing and proposed freeways, major thoroughfares, transportation routes, terminals, and other facilities and features all correlated with the land use element of the General Plan.
- (c) A service-systems element indicating the general location and characteristics of service-systems supplying the City with utilities and services.

The General Plan may include other elements including those enumerated by State Law when approved by the Planning Commission and the Council.

The second area of confusion about the General Plan concerns the content of the Plan. At present, Section 95(a) of the Charter merely refers to "a master plan for the physical development of the City, as such term is defined by State law, insofar as such definition is applicable to the City." Who determines what is applicable to the City?

The proposed Charter Section 96.5(2) outlines the minimum subject matter of the General Plan and permits other subjects to be included upon approval of the Planning Commission and the City Council. Subparagraphs (a) and (b) are similar to the requirements of the State Planning Law, and these are generally recognized by the planning profession as basic elements which must be part of any comprehensive General Plan. The State law includes "other local public utilities and facilities" within the circulation element. However, at the suggestion of the City Planning Commission, with which we concur, utilities and other public services are more logically included as a separate service-systems element.

It is not intended to define exactly what types of facilities should be included within the circulation element. The words "other facilities and features" would permit collector streets to be included, for example, even if it were argued that such streets could not be classed as "major thoroughfares."

The word "general" is used in the Charter provisions describing the nature of each of the mandatory elements. This is deemed necessary to emphasize that the General Plan is an overall policy guide, not a regulatory device. The inclusion of precise locations or designs as part of the General Plan is likely to detract from this basic function. Such precise plans, together with specific regulations to effectuate them, are separately provided for in our proposals under the heading of Specific Plans (see proposed Charter Sections 97.1 through 97.4).

A recent amendment to the State Planning Law has added a housing element as a mandatory part of a general plan for general law cities. We recognize that such an element might be highly desirable. However, the various professional and governmental organizations which are concerned with this new requirement have not yet formulated a clear understanding of what should be included within the housing element and, therefore, we conclude it would be premature to establish a housing element as a Charter requirement in Los Angeles. Nevertheless, our proposed

Charter provision would permit a housing element to be included in the General Plan at any time if so determined by the Planning Commission and City Council.

The third area of confusion arising under present Charter provisions about the General Plan concerns procedures for its adoption and amendment. In the present provisions there are only minimal procedural requirements for adopting the General Plan. For example, no specific provision is made for public hearings and the responsibility of the City Council to adopt the plan is not entirely clear. No provision is made for participation by the Mayor except as a member of the Master Plan Advisory Board.

Because the General Plan is an important public policy statement, it needs to be considered and adopted by resolution of the City Council after public hearing. All responsible public officials should provide the leadership and resources to make the Plan effective, and the responsibilities of the Mayor and Council for the General Plan should not be left in doubt (Recommendation 2).

(3) Procedure. The Director of Planning, with the advice of the Planning Commission and the General Plan Advisory Board, shall prepare in the manner prescribed by this Charter and by ordinance, and the Planning Commission shall approve and the Council shall adopt by resolution, a comprehensive General Plan for the development of the City and of any land outside the boundaries of the City which bears relation to its planning.

The first paragraph of proposed Charter Section 96.5(3) summarizes the general procedure to be followed. More detailed requirements are contained in the proposed provisions which appear below. It is made clear that a General Plan must eventually be adopted, that final action is by the City Council, and such action is by resolution rather than ordinance since the Plan is a policy statement rather than a regulatory measure. The authorization for including land outside the City is in accord with sound planning practice and parallels a provision in the State law.

Proceedings pertaining to preparation, consideration, hearings, time limits, approval and adoption of the General Plan, or any of its parts or amendments thereto, shall be as provided by ordinance, subject to the following limitations:

- (a) The General Plan shall be so prepared that the Planning Commission may approve and the Council may adopt it only as follows: as a whole; by complete subject elements; by substantial geographical areas; or by substantial portions of subject elements; provided that any such area or portion has significant social, economic or physical identity.

To be truly comprehensive, the General Plan must cover the entire City and interrelate all of the pertinent subject matter. However, because Los Angeles is so large and complex, it is necessary as a practical matter to break the Plan into logical units for consideration and adoption. On the other hand, it would be entirely inconsistent with the comprehensive nature and coordinating purpose of the General Plan for it to be adopted or amended in small bits and pieces. In order to prevent such piecemeal consideration, a limitation must be placed upon the extent to which the Plan can be divided for purposes of adoption or amendment.

- #
- (b) After public hearing by the Planning Commission, and upon its approval of said General Plan or any part thereof or amendment thereto, the same shall be presented to the Mayor and the Council by the Director of Planning.
 - (c) After receipt of the General Plan or any part thereof or amendment thereto as approved by the Planning Commission, and upon receipt of

the recommendations by the Mayor relative thereto, or the expiration of 30 days, whichever first occurs, the Council shall conduct a public hearing before acting thereon, and thereafter may adopt such Plan, or part thereof or amendments thereto provided the consideration of any such part or amendment conforms to the limitations set forth in Subsection (3) (a) hereof.

As representatives of the public, both the Planning Commission and the City Council should conduct public hearings before acting upon the General Plan. This would correspond to the requirements of the State Planning Law.

Provision is made in our proposal for the Mayor to play a key role in the recommending and approval of the General Plan, whereas, in the existing Charter no reference is made to participation by the Mayor other than as a member of the Master Plan Advisory Board. Under the proposed provisions the Mayor would have a power similar to that which he has in approving ordinances, but with the difference that he would review General Plan matters prior to their being acted upon by the Council, instead of only having a veto power afterwards as in ordinance matters. This proposed procedure would tend to insure final coordination of General Plan proposals with other basic City policies and programs under the Mayor's executive authority.

- # (d) If the Council proposes any change from that which is approved by the Planning Commission, such proposed change must be referred to the Director of Planning, the Planning Commission and the Mayor for recommendation. The Planning Commission and the Mayor must act thereon within a period determined by ordinance, or

such longer period as the Council may designate. Failure to act within such time shall be deemed to be an approval.

Proposed subsection (d) is designed to assist the Council in understanding the impact of any changes on other aspects of the Plan and to avoid isolated, piecemeal or conflicting features being adopted within the Plan. Thus, the function of the General Plan as an interrelating and coordinating document would be protected.

- # (c) Upon conclusion of its public hearing if no changes are proposed by the Council, or after receipt of the Mayor's and Planning Commission's recommendations on any proposed change, or the expiration of their time to act thereon, final action by the Council shall be taken within a period determined by ordinance.

Final action on General Plan matters should be taken by the Council within a reasonable time. Unreasonable delay in adopting a part of the General Plan could mean that such a portion of the Plan would no longer be in proper coordination with other elements of the Plan. In the event an extended delay occurs, a General Plan matter should at least be referred back for review and report by the Planning Commission and Mayor before being again considered for adoption.

- # (f) Adoption of the General Plan or any part thereof or amendment thereto shall be by majority vote of the entire Council if not contrary to the recommendations of either the Planning Commission or the Mayor. A two-thirds vote shall be required if contrary to the recommendations of either the Planning Commission or the Mayor, and a three-fourths

vote shall be required if action of the Council is contrary to the recommendations of both the Planning Commission and the Mayor.

Since the General Plan is a major policy document of the City, the Mayor should have at least the same degree of authority and responsibility with reference to it as he has in legislative matters.

As previously explained, the General Plan is not suitable for adoption by ordinance. However, proposed Subsection (f) would establish for the General Plan the same relative voting and veto power among the Planning Commission, Mayor and City Council as now exists with respect to those planning-related legislative matters which are adopted by ordinance.

(4) Implementation. The City Planning Commission shall make such reports and recommendations to the City Council and to other governmental officers or agencies as may be necessary to secure adherence to and systematic ~~execution~~ implementation of the ~~master plan~~ General Plan, and may publish and distribute reports relating ~~to the master plan~~ thereto. A copy of all adopted portions of the General Plan shall be available for inspection in the main and each branch office of the Department of City Planning.

The first sentence of proposed subsection 96.5(4) is presently contained in Section 96½ of the Charter. The second sentence is a reasonable minimum requirement designed to answer the complaint that it is now difficult if not impossible for the public to determine exactly what constitutes the officially adopted Plan.

Our Recommendation 30 emphasizes the need for improvement in the City's public information program concerning planning matters. Reports and information concerning the General Plan should be a vital part of such a program.

(5) Compliance. When acting upon a specific plan or any other matter enumerated in Sections 97.1 through 97.7 of this Charter, the Planning Commission and the Council shall make specific findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan. If the Council does not adopt the Planning Commission's findings and recommendations, the Council shall then adopt its own specific findings.

One of our key recommendations is that the Charter be amended "to require that in adopting or amending any zoning regulations or zoning maps, the City Planning Commission and City Council shall make specific findings showing that the action is in substantial conformance with the purposes and intent of the General Plan. If the City Council does not adopt the Commission's findings, the Council shall adopt specific findings showing that its action is in conformance with the General Plan." (Recommendation 4.)

We found that too often the General Plan had not been brought to bear in the legislative adoption of zoning regulations. Testimony we received pointed out numerous cases where zoning actions were apparently influenced far more by individual arguments, circumstances and pressures than by a consistent and logical rationale for achieving a long-range community plan.

At present the Charter merely requires that zoning legislation be referred to the City Planning Commission for report and recommendation as to its relation to and effect upon the Plan, but contains no requirement that zoning legislation should in fact be consonant with the Plan.

The proposed Charter provision has been written to include not only zoning matters but all those city development matters which are subject to review by the Planning Commission.

Thus, this new and vital requirement is designed to give the General Plan some teeth by requiring that any plan implementation

matter must be based upon findings of substantial conformance with the General Plan. Any significant deviation from the Plan would be subject to invalidation by the courts. Consequently, before any such deviation could be made it would be necessary to amend the General Plan and this in turn would require a rethinking of the broader impact of such change upon other features of the Plan. Since under these new provisions the General Plan would be adopted after hearings and with participation by the Mayor more in the manner of a legislative action, these stronger requirements are justified in order to give effect to this important policy document.

AREA-BY-AREA REVIEW OF GENERAL PLAN AND ZONING MAP

Sec. 96.6. General Plan and Zoning Areas

For the purpose of reviewing or amending the General Plan and the zoning map, the Planning Commission shall recommend to the Council and the Council shall adopt an ordinance providing for the division of the entire City into areas and providing a schedule for the consideration of such areas. The schedule shall be adhered to unless the Planning Commission determines there are special circumstances affecting the public interest as such may be defined by ordinance which necessitate a deviation therefrom. Any proposal or application for the adoption of or amendment to either the General Plan or the zoning map shall be considered only during the period scheduled for the area involved except that matters involving City-wide application need not be considered on an area-by-area basis.

In accordance with two of our key recommendations, this provision is designed to create an orderly processing of both General Plan and Zoning Map changes (Recommendations 3 and 6). Such a procedure should go a long way to eliminate piecemeal or spot zoning, and to insure that the various features

of both the General Plan and the zoning pattern are properly interrelated with one another. In addition, this procedure should be much more efficient, both for the City and for the general public than the present case-by-case procedure.

Effective planning must be a continuing process. A general plan which no longer reflects the aims of the people, the realities of existing situations or the latest reliable social, economic and technological forecasts is a useless plan. In view of the size and diversity of the City of Los Angeles, it is apparent that much of the material which should constitute the City's General Plan can be adequately maintained only through a continuing area-by-area process of study and revision.

With respect to zoning, a unique feature is that the individual property owner is given the relatively unrestricted privilege of applying for a legislative change and then is able to force consideration of his particular request through the entire legislative process. Although valid reasons can be found for this arrangement, it is doubtful that it was originally intended to be more than a rarely used provision which would serve to protect the individual property owner from grossly unfair zoning. The fact that zone changes by owners' applications rather than by City initiative has become so prevalent is substantial evidence that the City is failing in its responsibility to keep its zoning pattern up to date.

Particularly in rapidly changing areas, reliance upon owners' applications to initiate zone changes often results in inefficient, repetitious consideration of the same areas. For example, three separate zone change applications might be filed within several weeks and involve properties within a few blocks of each other. Unless a special study of the whole area has been initiated, the Department staff and Commission have no choice but to make separate field investigations and reports, hold separate hearings and make separate decisions on these three cases even though most of the information and issues involved are the same.

Furthermore, we received numerous complaints from citizens concerning the difficulties

of keeping track of zoning applications affecting their communities since each application is scheduled for consideration separately. Grouping zone change requests by area and considering them according to a pre-announced schedule will greatly alleviate this problem.

More importantly, there is not always the opportunity to consider separate requests affecting an area for their combined interrelationships and impact upon the community before making a decision on any one of them. Obviously with this piecemeal procedure the public is unnecessarily inconvenienced and less able to grapple effectively with the basic community issues which may be involved than would be the case if all the changes for an area are considered at one time. However, the proposed procedure should not preclude acting on special cases on an individual basis when unusual and acceptable reasons to do so are present. Criteria should be established by ordinance to assist in determining when these exceptional circumstances exist. Such out-of-turn zone change proceedings should occur only to meet pressing public needs and not for the special convenience of particular property owners. The determination as to whether or not the required public interest criteria are met in order to justify out-of-turn consideration of a zoning case should be made by the Planning Commission. Such determination could be appealable to the City Council.

Obviously, many principles, policies, and standards contained in the General Plan would apply throughout the City and would not lend themselves to area-by-area consideration. Therefore such City-wide matters should be exempted from the area-by-area procedure.

With respect to zoning, note that this procedure would apply only to legislative changes in the Zoning Map, and not to the consideration of conditional uses, planned developments, variances and other administrative or quasi-judicial matters.

PLAN IMPLEMENTATION

~~Sec. 97.~~

Present Charter Section 97 deals with a variety of plan implementation matters. These

existing provisions are rearranged together with some new provisions as follows:

Subject	Present Section No.	Proposed Section No.
Public land acquisition and public works referrals	97(1)	97.6
Zoning	97(2)	97.2
Hearings and investigations	97(3)	97.9
Delegation of authority to Board of Zoning Adjustment	97(4)	Deleted
Delegation of authority to Director of Planning	97(5)	97.8
Specific plans	None	97.1
Building lines	None	97.3
Public projects	None	97.4
Development regulations referrals	None	97.7

SPECIFIC PLANS

Sec. 97.J. Specific Plans

A specific plan is a precise statement of policies, standards and regulations together with a map or description defining the exact locations where such policies, standards and regulations are applicable.

(1) **Purpose.** The purpose of a specific plan shall be to provide, by ordinance, regulatory controls for the systematic execution of the General Plan and to provide for public needs, convenience and general welfare.

(2) **Content.** Such specific plans may include:

(a) **Zoning:** Regulations of the use of land and buildings, the height and bulk of buildings, and the open spaces about buildings.

(b) **Public Projects:** Regulations limiting the location of buildings and other improvements in relation to existing or planned rights-of-way or other types of public projects.

(c) Such other measures as may be required to insure the execution of the General Plan.

(3) Procedure. The Council may, by ordinance, provide regulations, consistent with the provisions of this Charter, for the preparation, consideration, hearings, time limits, approval and adoption of specific plans and amendments thereto.

Present Charter provisions fail to make a clear distinction between the General Plan and the regulatory measures which may serve to carry out the General Plan. There also appears to be some confusion as to the degree of precision appropriate for the General Plan as compared to the precision of a zoning map or a building line regulation, for example. Instances of undue precision in the present Master Plan are found in certain land use plans which have been adopted as part of the Master Plan but are in effect precise zoning maps. When a general plan becomes a repository for all sorts of regulatory detail, it tends to lose its essential function of conveying overall guiding principles, policies and relationships.

In order to clarify this distinction, we propose that provision be made, as it is in State law, for a category of precise plan—called specific plans—which may be enacted as regulatory measures to carry out the General Plan. Proposed Charter Section 97.1 is an overall statement indicating the nature of such plans and providing authority for their enactment. Under this heading of Specific Plans should be included planning tools now in use such as zoning—which is an ordinance regulating the use of land—as well as new planning regulations which may be developed in the future. One form of new specific plan regulation which we suggest is the protection of planned rights-of-way and other land needed for public purposes as enumerated here in proposed Subsection (2) (b) and provided for in greater detail in proposed Charter Section 97.4.

Since specific plans are intended to be regulatory, they are clearly legislative in character and therefore must be enacted by ordinance (Recommendation 29).

ZONING

The Zoning Code meets the definition

of a Specific Plan as provided in Section 97.1. However the present provisions of Section 97(2) of the Charter, which authorize citizens to apply for changes in the Zoning Code and require that all Zoning Code matters be reported upon by the Planning Commission, should be retained; therefore these existing provisions are revised as necessary to conform with our various recommendations and are renumbered as Section 97.2.

Sec. 97.2 Specific Plans—Zoning

(1) ~~(2)~~ No ordinance, order or resolution shall be adopted by the Council involving (i) the creation or change of any zones or districts for the purpose of regulating the use of land, density of population, the height, bulk, location or use of buildings or structures therein, or the size of yards, open spaces or setbacks adjacent to buildings or structures, or (ii) the authorization of location and regulation of uses of land which may be designated in the zoning ordinance as unclassifiable according to zones or districts,

A clause is inserted to identify the approval of an "unclassifiable use" as a legislative zoning action which is subject to report and recommendation by the Planning Commission prior to Council action.

In connection with our consideration of conditional use matters, we recommend that certain of the uses presently handled as conditional uses under the jurisdiction of the City Planning Commission be placed in a new category called unclassifiable uses, with each such use subject to legislative approval. This category would be limited to certain large-scale unique land uses such as airports, cemeteries, higher educational institutions, land reclamation projects, and natural resource developments, since these uses cannot be satisfactorily assigned to any particular zoning classifications (Recommendation 8). At present these uses are handled administratively by the Planning Commission and only reach the City Council if appealed.

If these matters are to be handled legislatively, they should be subject to the same Charter provisions as other zoning legislation.

or (iii) the establishment, change or repeal of regulations applying within any of said zones, districts, yards, open spaces, or setbacks, unless and until it shall have first been submitted to the City Planning Commission for report and recommendation concerning the following:

- (a) Its relation to and effect upon any portion of the master plan of the City General Plan, specific plans and of any plans being prepared by the Department of City Planning, and

Reference to specific plans is added here in recognition of this new terminology and the Planning Commission's responsibility to coordinate properly all applicable plans.

Also note that under proposed Section 96.5(5), the Commission and Council would be required to make findings of conformance to the General Plan in addition to considering the relation to and effect upon the General Plan as required in the existing provisions.

(b) Whether its adoption will be in conformity with public necessity, convenience, general welfare and good zoning practice.

(2) Proceedings for the creation or change of any of said zones or districts, or the authorization of an unclassifiable use, or the establishment, change or repeal of any regulations applying therein thereto, may be initiated by the filing of an application with the City Planning Commission as provided for by ordinance, or by the Council or the City Planning Commission.

When a proceeding involving any of the matters mentioned in subsection (2) hereof is initiated by the Council, it shall be the duty of the City Planning Commission to make and file its report and recommendation thereon with the Council within fifty (50) days

of receiving same or within such additional time as the Council may specify. Should the Commission recommend approval of the matter involved, in whole or in part, or fail to make any recommendations within the time limit specified herein, an ordinance, order or resolution in conformity therewith shall be prepared and presented to the Council, which may adopt same by majority vote of the whole Council. Should the Commission recommend against the approval thereof, the Council may adopt an ordinance, order or resolution effectuating same only upon a two-thirds vote of the whole of the Council.

When an application involving any of the proceedings mentioned in subsection (2) hereof is filed with the City Planning Commission, it shall be the duty of the Commission to act thereon within fifty (50) days of the date of such filing. This period may be extended for an additional period of not to exceed twenty one (21) days by mutual consent of the applicant and the Commission. The Council may, by ordinance, prescribe time limits, conditions and procedures under which the Commission may withhold action on any application for change of zone beyond the periods hereinabove specified when the application pertains to land located within an area in which the Commission is conducting a general survey or study. Should

(3) If the Commission recommends approval of the matter involved, in whole or in part, of any matter mentioned in Subsection (1) hereof, or fails to make any recommendations within the above specified period time limits prescribed by ordinance, an ordinance, order or resolution in conformity therewith with the action of the Commission, or in conformity with the request to the Commission if the Commission has failed to act, shall be prepared and presented to the Council

which may adopt same by majority vote of the whole Council. Should If the Commission recommends against the approval thereof of any matter mentioned in Subsection (1) hereof, in whole or in part, its action thereon shall be final except that an appeal may be taken to the Council within the time and in the manner prescribed by ordinance. Upon such appeal, the Council shall review the action of the Commission and may adopt an ordinance, order or resolution effectuating same granting such appeal, in whole or in part, only upon a two-thirds vote of the whole of the Council.

The present Charter provisions on zoning procedure deal separately with cases initiated by the City Council and those initiated by a property owner's application. This repetition of essentially the same procedure seems unnecessary, especially since it is proposed that the details concerning time limits and appeals be prescribed by ordinance.

The present provisions authorizing the withholding of action on cases within study areas is deleted since an area-by-area procedure is provided in proposed Section 96.6.

These provisions have been further shortened by eliminating the specific time limit (50 days with a possible 21 day extension) presently included in the Charter. Simply requiring that time limits be prescribed by ordinance will permit the area-by-area procedure (covered in Section 96.6) to be established and will allow future adjustments in exact time limits to be made as changing procedures and circumstances in the City might require.

BUILDING LINES

Sec. 97.3. Specific Plans — Building Lines

(1) No ordinance, order or resolution shall be adopted by the Council regulating the setback of buildings or other improvements adjacent to a street or highway unless it shall have first

been submitted to the Planning Commission for report and recommendation concerning: its relation to and effect upon the General Plan, the applicable zoning regulations and any other specific plans, and any plans being prepared by the Department of City Planning; and its conformity with public necessity, convenience and general welfare.

(2) Proceedings for the establishment, change or repeal of any such building line regulations shall be subject to the same limitations set forth in Subsections (2) and (3) of Section 97.2 of this Charter.

There are no specific provisions for building line regulations in the present Charter provisions. Proposed Charter Section 97.3 would remedy that omission. Building lines should be treated separately from zoning regulations since they are not established on the basis of the same legal principle. Zoning involves uniform regulations applied by district, whereas building lines are not necessarily uniform in application and relate to linear patterns along a street or highway.

PUBLIC PROJECT PROTECTION

Section 97.4 Specific Plans—Public Projects

(1) Purpose. Specific plans for public projects may be adopted in order to establish regulations and protection against intrusions into land area required for physical public improvements such as streets, parks, public buildings or other functional public features.

(2) Content. A specific plan for a public project shall include a map, with or without descriptive text, showing the exact location, required land area, and dimensions of a proposed public project, and may include regulations limiting the location of buildings or other improvements both within and adjacent to the land area required for the project.

(3) Procedure. When a public project needs specific and controlling identification and protection, the Director of Planning with the assistance of the City Engineer or the technical head of any other department whose duties are reasonably related to such project shall prepare, in the manner prescribed by this Charter and by ordinance, a specific plan. Upon report and recommendation by the Planning Commission, such plan shall be transmitted to the Council. Adoption of any such plan shall be by ordinance.

The Council may, by ordinance, provide further regulations pertaining to the proceedings for the preparation, consideration, hearings, time limits, approval and adoption of such specific plans, or amendments thereto.

Proposed Charter Section 97.4 would authorize a type of regulation not now utilized in Los Angeles. It would provide for regulations similar to the official map technique which is used in many places in the United States and which is provided for in California law.² These provisions could possibly be used for civic center and historical site control in addition to protection of other public sites. The actual regulations which might be adopted under this provision would, of course, be limited to reasonable restrictions. With respect to future public lands, a time limit would probably need to be established beyond which either the City must acquire the property and pay compensation or release the property from further regulation.

Since specific plans are to be precise, they must be based upon detailed project designs prepared by the appropriate agencies. Thus, a specific plan could only be prepared after design work has been initiated by the responsible agency. Furthermore, since specific plans would be effective only upon adoption of an ordinance, any inter-departmental differences could be resolved by the Mayor and Council prior to giving their approval.

²California Streets and Highway Code, Sections 740 through 742, provides such regulations pertaining to State Highways. California Government Code, Section 65451(a), authorizes such regulations with respect to any existing or planned right-of-way.

Note: Section No. 97.5 is not utilized, but could be used in the future in connection with provisions for some additional type of specific plan.

PUBLIC USE REFERRALS

Sec. 97.6. Referrals—Public Uses.

(1) No ordinance, order or resolution shall be adopted by the Council authorizing, ordering or involving any of the following enumerated matters, unless and until such ordinance, order or resolution shall have first been submitted to the City Planning Commission for report and recommendation concerning the relation of the matter involved to and its effect upon any portion of the master plan of the City General Plan, any applicable specific plans and of any plans being prepared by said department the Department of City Planning:

- (a) The acquisition, establishing, opening, widening, narrowing, straightening, abandoning or vacating of any public street, road, highway, alley, square, park, playground, airport, public building site, or other public way, ground or open space, but not including easements for local sanitary sewers, storm drains or slopes.
- (b) The location, appearance, and width of any bridge, viaduct, subway, tunnel or elevated roadway for the use of pedestrian or vehicular traffic, or the location and appearance of any public building.

Proposed Charter Section 97.6 incorporates the present provisions of Section 97(1) relating to the review of public land acquisitions and public works projects by the Planning Commission in order to insure their

conformity with the General Plan and to coordinate with other plans and public development activities. Reference to "any applicable specific plans" is added in keeping with the proposed provisions for such plans and the intended coordinating role of the Planning Commission.

(2) ~~It shall be the duty of the City Planning Commission within fifty (50) days from~~ Upon the receipt of any such proposed ordinance, order or resolution, it shall be the duty of the Planning Commission to make and file its report and recommendation thereon with the Council within a time limit prescribed by ordinance, ~~and should said Commission recommend against the approval thereof, the Council may adopt same only upon a two-thirds vote of the whole of said Council. Should~~ If the City Planning Commission recommends approval or fails to make any recommendation within the prescribed time mentioned herein limit, the said Council may adopt such ordinance, order or resolution by a majority vote of the whole Council. If the Commission recommends against the approval thereof, the Council may adopt same only upon a two-thirds vote of the whole Council.

The specific time limit of 50 days for Planning Commission action is deleted in order that the exact time limits may be set and adjusted by ordinance as necessary to accord with current procedures and circumstances in the City.

OTHER REFERRALS

Sec. 97.7. Referrals—Other Development Regulations

(1) No ordinance, order or resolution shall be adopted by the Council involving any of the following matters unless it shall have first been submitted to the Planning Commission for report and recommendation concerning the relationship of the matter involved to and its effect upon the General Plan, specific plans, and any

other plans and regulations approved by the Commission or being prepared by the Department of City Planning:

- (a) Subdivision regulations.
- (b) Private street regulations.
- (c) Such other types of regulatory measures related to the General Plan or the development of the City as may be defined for this purpose by ordinance.

(2) Upon the receipt of any such proposed ordinance, order or resolution, it shall be the duty of the Planning Commission to make and file its report and recommendations thereon with the Council within a time limit prescribed by ordinance. If the Commission recommends approval or fails to make any recommendation within the prescribed time limit, the Council may adopt such ordinance, order or resolution by majority vote of the whole Council. If the Commission recommends against the approval thereof, the Council may adopt same only upon a two-thirds vote of the whole Council.

Land subdivision and private street regulations are now included within the city planning section of the Municipal Code and tentative or preliminary approvals of subdivision tract maps and private street maps are administered by the City Planning Department. However, the present Charter makes no specific provision for the Planning Commission to participate in the establishment or amendment of these regulations. It is proposed that such regulations be referred to the Planning Commission before City Council adoption with the two-thirds partial veto power such as is applied to zoning and other planning matters.

A provision is proposed to be added to permit other forms of city planning regulation which may be developed in the future also to be brought under the review powers of the Planning Commission.

This section would be a replacement for the vague provisions of present Charter Section 96½ which refers to the broad subject

of regulatory measures to carry out the General Plan.

The proposed procedural requirements for referral of such matters to the Planning Commission would be the same as now applied to public land acquisitions and public works projects.

DELEGATION OF COMMISSION AUTHORITY

~~(4) Notwithstanding any of the provisions of this Charter to the contrary, any of the powers or duties conferred upon the City Planning Commission by subsections (1), (2) and (3) hereof, except those of reporting and recommending on the creation or change of zones or districts, or the regulations applying within said zones or districts, may be delegated to the Board of Zoning Adjustment by ordinance adopted by two-thirds vote of the whole of the Council, after report thereon by the City Planning Commission and the Board of Zoning Adjustment. All of the limitations and requirements hereinabove set forth in these subsections shall apply whether a matter is acted upon by the City Planning Commission or by the Board of Zoning Adjustment. In the performance of any of the duties so assigned to it, the Board of Zoning Adjustment shall hold such hearings as may be required by ordinance, and may conduct additional hearings, or may direct an examiner to conduct such hearings for it as prescribed by ordinance, and exercise such powers as prescribed in subsections (d), (e) and (f) of Section 89 of this Charter.~~

Section 97(4) of the present Charter provisions authorizes functions to be transferred from the Planning Commission to the Board of Zoning Adjustment if ordered by ordinance upon a two-thirds vote of the Council. Currently, matters relating to building lines, private streets, parcel maps, public land acquisition and public works referrals have been so transferred.

We strongly recommend that the Board be limited to its primary quasi-judicial function of handling zoning administration appeals (Recommendation 15). Prior to 1963 the Board was exclusively a zoning administration appeal body and operated successfully in that role. The other matters which have since been assigned to the Board involve either administrative planning decisions or advice to the City Council on legislative and policy questions. The result is that the Board's responsibilities have become so mixed that the Board has tended to lose sight of its basic quasi-judicial role.

The present delegation to the Board of nonquasi-judicial functions violates the principle of centering responsibility and authority for a function in one agency. Divided authority and responsibility produce ineffective, confusing, and inconsistent administration. But such divided authority prevails in the present situation where, for example, the Planning Commission retains jurisdiction over building line cases related to zoning cases but has delegated other building line cases to the Board. Subdivision tract maps, involving division of land into five or more parcels, are appealable to the Planning Commission, while parcel maps, involving division of land into four or less parcels, are appealable to the Board. The possibilities for inconsistent policies and actions as between the two agencies are apparent.

Another principle involved here is that the Board, as a quasi-judicial appellate agency, is intended to operate as an "appeal court" for certain specialized matters where the fair and consistent adjudication of individual rights and privileges is a paramount consideration, just as the regular court system is the final arbiter for the proper application of general laws to individual situations. In both cases, it is important that the court processes function independently from the political decision-making processes. In order to maintain this separation of functions, the Board should not also become involved as an intermediate decision-making or recommending body with respect to matters that must finally be acted upon by the City Council.

This principle may be illustrated by the procedure for approving subdivision tract maps. The basic procedure is defined by State law which specifies that the City Council must have final appeal authority. The local subdivision ordinance may supplement the State law by designating an administrative official to make initial approvals of tract maps and may further designate an intermediate appeals body. It would not be proper for a quasi-judicial body such as the Board of Zoning Appeals to perform this type of intermediate appeal function wherein the Board's actions would be subject to being overruled by the City Council. To put the Board in this position would be comparable to authorizing the legislative branch of government to overrule the individual decisions of the courts. Rather, a judicial or quasi-judicial body should only be called into play to adjust or adjudicate a matter after the final administrative or legislative action has been taken.

It is therefore proposed to delete Section 97(4) which contains the present Charter authority for transferring nonquasi-judicial functions to the Board.

Sec. 97.8. Delegation of Authority
~~(5) The City Planning Commission may authorize the Director of Planning to approve or disapprove for the City Planning Commission or the Board of Zoning Adjustment, any ordinance, order or resolution which he finds is subject to the provisions of Sections 97.1 through 97.7 of this Charter. In exercising any such authority, the Director must find that his action conforms with the latest approved all applicable portions of the master plan, General Plan and with all applicable specific plans or which conforms to with the last latest action of said the Commission or Board; on the same matter. An action of the Director under this authority shall be subject to the same within the time limits and with shall have the same effect as if they the Commission had acted directly thereon.~~

Proposed Section 97.8 is a clarification of language contained in present Charter Section

97(5). The present provision only refers to delegation of approvals to the Director of Planning while the proposed language would permit the Director to either approve or disapprove a matter when so authorized by the Planning Commission. The Commission could, of course, impose whatever policy limitations it wishes upon any such authority delegated to the Director.

In view of our proposal to remove all matters from the Board of Zoning Appeals which are not taken to that Board on appeal from a Zoning Administrator's decision, a workload problem for the Planning Commission would be created unless the Planning Commission is able to delegate some matters to an administrative official. This proposed revision would permit such routine administrative matters as the approval of public land acquisitions and public works referrals to be handled directly by the Director of Planning.

Effective management of a large Planning Commission workload requires that adequate policies be defined; and then decisions delegated to an appropriate administrative official operating under these policies. To simply shift a portion of the workload to another agency, such as the Board of Zoning Adjustment, merely divides and dilutes authority and responsibility, but does nothing to increase efficiency nor to secure adherence to a stable policy.

HEARINGS AND INVESTIGATIONS

Sec. 97.9. Hearings and Investigations
~~(3) In complying with the provisions of this section Sections 97.1 through 97.7 of this Charter, the City Planning Commission shall hold such hearing or hearings as it may determine, or as may be required by ordinance, or may direct an examiner to conduct such hearings for it. The Director of Planning shall make such investigations relative to all matters mentioned provided for in this section Sections 97.1 through 97.7 as the City Planning Commission may direct and shall file his reports thereon with the Commission.~~

This is a restatement of the provision presently contained in Charter Section 97(3).

OFFICE OF ZONING ADMINISTRATION

One of our major concerns is the proper exercise of the quasi-judicial functions involved in zoning. Essentially, quasi-judicial actions involve the application of judgment to achieve fair and equal treatment among affected individuals within the intent of legislated regulations even though some deviation from the literal or normal requirements may be involved. The danger in the exercise of quasi-judicial authority is that, unless adequately limited and controlled, such authority may be used to grant special privileges.

Los Angeles has pioneered the zoning administrator system whereby quasi-judicial decisions initially are made by professional administrators on the basis of careful analysis and consistent interpretation of the law. We believe this system has worked well over the years and therefore the Office of Zoning Administration should retain its basic powers and semi-independent status (Recommendation 13), but with added emphasis on its quasi-judicial role and with clarification of the proper scope of its decision-making authority (Recommendation 14). Our proposed revision of Charter Section 98 is directed toward these ends.

Sec. 98. Office of Zoning Administration

(1) There is hereby created as a quasi-judicial agency, the Office of Zoning Administration.

The term "quasi-judicial" is proposed to be inserted to emphasize the proper role of this agency.

The functions and duties of this office shall be performed by one or more Zoning Administrators as authorized by the Council, and who shall be appointed by the Director of Planning subject to the Civil Service provisions of this Charter. If more than one Zoning Administrator is authorized, a position of Chief Zoning Administra-

tor shall be established, the appointment to which shall be made by the Director of Planning, and such others shall be Associate Zoning Administrators.

~~The Zoning Administrator, if he has held such position for six (6) months previous to the time this section becomes effective, shall continue in the position of Zoning Administrator hereunder, and if he further holds such office at such time as the position of Chief Zoning Administrator is established shall be deemed to have the qualifications for and shall be and become the Chief Zoning Administrator.~~

A paragraph of the present provisions is deleted at this point since it pertains only to the initial appointment of a Chief Zoning Administrator, an event which occurred in 1957.

(2) Subject to such rules and regulations as the Council may prescribe by ordinance, the Chief Zoning Administrator and Associate Zoning Administrators shall have the following powers and duties:

(a) ~~(1)~~ To investigate and make a determination upon appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Department of Building and Safety in the enforcement or administration of the provisions of any ordinance ~~adopted by the Council~~ creating zoning districts or regulating the use of property in the City.

There is no change proposed in this appellate authority over Building Department decisions in the administration of the Zoning Code.

(b) To investigate and make a determination upon all applications for conditional use

permits (which uses generally require a special degree of control to assure their compatibility with other surrounding uses) or any similar administrative determination required by the zoning ordinance to be considered and acted upon under criteria, standards and limitations established by ordinance. The granting of a conditional use permit or similar administrative determination shall not adversely affect the various elements and objectives of the General Plan: A Zoning Administrator may impose restrictions and limitations beyond those specified in the zoning ordinance where, for reasons cited in his findings, such restrictions and limitations are necessary to assure compliance with the purposes, intent and provisions of the criteria, standards and limitations established by ordinance.

At present, the subject of conditional use permits is not mentioned in the Charter. However, for many years this device has been provided for in the Zoning Code as a means by which a specific land use may be authorized at a specific location and controlled by special regulations imposed as conditions of approval. The present Code provisions on conditional uses are confusing since some types are under the original jurisdiction of the City Planning Commission appealable to the City Council, while others are handled directly by the Office of Zoning Administration. Of those handled by the Office of Zoning Administration, all are appealable to the Board of Zoning Adjustment, but some of these are further appealable to the City Council while others by implication are reviewable only by the courts. Also, at present, there are no codified standards for the approval and control of such uses.

Some testimony we received advocated that conditional uses be appealable to elected

representatives of the people—the City Council. We completely disagree with this premise. We point out that the zoning cases which have attracted the attention of recent grand juries all involved final action by the City Council. This does not imply a criticism of the Council; rather it condemns the practice which results in an individual determination in each case in the absence of ordinance defined standards, criteria and guidelines which would permit proper administrative action.

Most of the conditional use cases we examined involved the granting of a high degree of special privilege. Significant deficiencies in these cases are found not only in the fact that the City Council passes final judgment but also in the fact that each case is handled individually with resulting inconsistencies and the consequent uncertainty as to what may happen in the whole zoning program. The primary remedy is to be found in the adoption by ordinance of adequate standards, criteria and guidelines to be applied in all cases so that individual cases will be viewed not as individual legislative acts, as at present, but as administrative acts based upon Council-determined requirements. The dignified and important position of the legislative body dictates that it should clearly define its policies in these matters.

Another serious weakness of the present system is that these individual determinations, made without reference to any clearly defined policy, produce in a most aggravated form the equivalent of spot zoning—a device consistently frowned upon and invalidated by the courts.

The question now is whether the Planning Commission and City Council should continue the time-consuming process of handling these cases individually and without consistent guidelines; or could the Commission and Council be more effective by using their time to develop general policies, criteria and standards to guide others in acting upon conditional uses? We strongly believe the latter is the only legal, proper and efficient course.

One of our most important recommendations, therefore, is that adequate regulations and criteria be established in the Code for

the approval of conditional uses and that the consideration and approval of such uses be under the jurisdiction of the Office of Zoning Administration with appeal to the Board of Zoning Appeals and any further appeal only to the courts (Recommendation 7). It may be pointed out that, for general law cities, the State Planning and Zoning Law also clearly assigns conditional uses to the quasi-judicial agency by providing that: "The board of zoning adjustment or zoning administrator shall hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining such matters, . . ."

- # (c) To investigate and make a determination upon applications for planned unit development projects (which are generally large-scale projects adhering to the policies and standards described in the General Plan and inherent in the requirements of the zoning ordinance, but allowing flexibility in design of open spaces, height and placement of buildings and incidental uses) by the same procedures provided for considering and approving conditional uses, subject to the restrictions, requirements and limitations consistent herewith established for planned unit developments by the zoning ordinance. The planned unit development procedure may be utilized for residential, commercial, or industrial projects.

A matter of special interest and controversy in the City is the question of how to treat large-scale planned developments—particularly planned residential developments. These are developments usually created by a single developer, to be maintained as a unit, and sometimes involving a combination of land uses—for instance, a complex of residential

buildings together with commercial buildings and community facilities to serve the residential population of the development. Although attention has been focused on planned residential developments, the principles involved could apply to planned commercial developments and planned industrial developments as well.

At present, planned residential developments may be authorized as conditional uses by the Planning Commission with appeal to the City Council. It was the 1966 County Grand Jury investigation of such a case which led to the formation of our Citizens Committee.

We concluded in our first report of July 1968 that planned developments, if properly controlled, should comply with the intent of the zoning regulations applicable to the area where such development occurs. The justification for requiring special approval of such developments lies only in the need to adjust the details of the regulations to fit the characteristics of large-scale developments. This is a function which can best be performed fairly and consistently by a Zoning Administrator by procedures similar to those which we propose for conditional uses (Recommendation 9). All of the dangers in the present conditional use procedure, as discussed above in connection with proposed Section 98(2) (b), apply in even greater degree to planned unit developments if they continue to be handled on an individual basis rather than under a consistent administrative procedure as recommended.

- # (d) ~~(2)~~ To investigate and make a determination upon all applications for variances from any of the regulations and requirements of the zoning ordinances.

The primary quasi-judicial function in zoning is the granting of variances. This device is intended to assure equal treatment under conditions which cannot be identified in advance in the adopted regulations. Variances are properly used to modify the application of zoning laws in order to bring the privileges of particular pieces of property to a parity

³California Government Code, Section 65901.

with other similarly located and classified properties, but without granting special privileges.

Testimony from several sources indicated to us that the wording of the present Charter-defined required showings for validating variances, if literally applied and without defining reasonable and workable interpretations of intent, would make the granting of many justifiable variances technically difficult. In order to alleviate this problem, we propose that a new authority distinct from the variance authority, and with its own set of criteria, be established to deal with slight modifications in yard and area requirements of the Zoning Code. This authority is contained in proposed Section 98(2)(f). With these yard and area matters removed from the variance category it then becomes possible to amend the variance criteria in order to more adequately and properly control the use of this device for making equitable adjustments of the zoning regulations in unusual situations (Recommendation 12).

Before granting an application for a variance, a Zoning Administrator must find:

(i) ~~(a)~~ That the strict application of the provisions of the zoning regulations or requirements ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations;

This continues the present requirement that, before a variance may be granted, there must be some unintended effect of the zoning regulations which works contrary to the apparent purpose of those regulations.

(ii) ~~(b)~~ That there are ~~exceptional~~ special circumstances or conditions applicable to the subject property involved or to the intended use or development of the property such as size, shape, topography, location or surroundings that do not apply generally to other property or land use in the same zone or neighborhood and vicinity;

This provision is proposed to be modified to deal only with special circumstances applicable to the property involved. Considerations relating to the "intended use or development of the property" are now covered in the next provision. The kinds of special circumstances contemplated are more fully explained by example.

(iii) That such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances or unnecessary hardships, is denied to the property in question;

This is a proposed additional provision to help insure that equality of rights and privileges are maintained. A variance is justified only if substantial injury would otherwise occur, but should not be justified merely on grounds of convenience or financial gain.

(iv) ~~(c)~~ That the granting of a such variance will not be materially detrimental to the public welfare or injurious to property or improvements in ~~such~~ the same zone or neighborhood vicinity in which the property is located; and

No substantial change is proposed in this requirement.

(v) ~~(d)~~ That the granting of a the variance will not be ~~contrary to~~ the objectives adversely affect any element of the ~~master plan~~ General Plan.

It is proposed to change the wording, but not the basic intent, of this provision in order to be more inclusive as to the scope of General Plan consideration and to provide language similar to that used in other Charter sections regarding the relationship to the General Plan.

In granting a variance a Zoning Administrator ~~may~~ shall impose such conditions as will remedy disparity of privileges and which are necessary to

protect the public health, safety or welfare, and to assure compliance with the objectives of the ~~master-plan,~~ General Plan ~~in accordance with~~ and the purpose and intent of the zoning ordinance. A variance shall not be used to grant a special privilege inconsistent with the limitations upon other properties in the vicinity and same zone in which subject property is located, nor may it be used to grant relief from self-imposed hardships.

A revision of this paragraph is proposed to clarify the basis for imposing conditions in granting variances while emphasizing that there is no authority for going beyond that which is necessary to provide equal treatment among property owners. In the past it has been generally understood by Zoning Administrators and by the courts that self-imposed hardships do not constitute grounds for approving a variance. Language is added to clarify and emphasize this point.

- # (e) To determine, pursuant to procedures and limitations provided in the zoning ordinance, the proper classification of those uses not specifically listed in such ordinance.

It is proposed to add authority for a Zoning Administrator to classify land uses which are not specifically listed in the zoning ordinance. The Office of Zoning Administration now exercises this authority under Code provisions⁴ only.

- # (f) Under standards, limitations and procedures established by ordinance, to grant slight modifications in yard and area requirements of the zoning ordinance when the size or shape of the property makes the literal application of the yard and area requirements impractical.

At present, a Zoning Administrator may grant slight yard and area modifications only if he finds that all the circumstances required for granting a variance are present. We found that a strict literal construction of these requirements would make it almost impossible to grant many worthy and proper yard or area modifications. In order to solve this problem, a new provision is proposed which would not be subject to the limitations of variances but would require that standards and criteria for such modifications be established by ordinance.

- # ~~No written finding shall be required in granting variances authorizing slight modifications in individual cases from area requirements of the zoning regulations. Written findings shall be made in conjunction with all other determinations of a Zoning Administrator and all such cases may be appealed to the Board of Zoning Adjustment.~~

(3) Determinations by a Zoning Administrator shall be supported by written findings of fact based upon testimony and documents presented to him, together with the results of his investigations, except that no written findings shall be required for slight modifications in yard or area requirements.

Although the wording is revised and strengthened, no basic change is proposed in the requirement for written findings by Zoning Administrators. A partial explanation of the enviable record established since the inception of the Office of Zoning Administration in Los Angeles is found in the policy and practice of developing specific and pertinent findings upon which decisions are based. This practice has established an ever-increasing foundation of record precedents assuring consistent decisions by the Office of Zoning Administration (Recommendation 21).

- # A Zoning Administrator shall make ~~his decision~~ a determination on any matter under his jurisdiction as expeditiously as possible ~~and in any event within 50 days from the date the matter is filed,~~ except that this

⁴Municipal Code, Section 12.21A2.

~~time limit may be extended by mutual consent of the applicant and the Zoning Administrator then having jurisdiction of the matter. The City Council shall by ordinance provide time limits within which a Zoning Administrator must act for each type of case under his jurisdiction. If no determination is made by a Zoning Administrator within these the prescribed time limits, the applicant may request that the matter be transferred to the jurisdiction of the Board of Zoning Adjustment Appeals.~~

It is proposed that the present Charter-specified time limit of 50 days be deleted in favor of a requirement that such time limits be prescribed by ordinance. This would make it possible for the City Council to adjust exact time limits as changing procedures and administrative circumstances may require.

~~for a transfer of jurisdiction to said Board and for a determination of the original application, in which case the Board of Zoning Adjustment shall assume jurisdiction and the Zoning Administrator shall lose jurisdiction, except that the matter may be remanded to the Zoning Administrator on the Board may accept applicant's request for withdrawal of such transfer of jurisdiction, in which case the Zoning Administrator shall regain jurisdiction for the time and purpose specified by the Board. If the Board does not remand the matter to the Zoning Administrator, it shall consider the matter in the same manner as provided for the consideration of appeals; however, the Office of Zoning Administration shall make such investigations and furnish such reports upon such matters as the Board may request.~~

The details concerning the transfer of jurisdiction procedure are proposed to be removed from this section and incorporated in Section 99 concerning the Board of Zoning Appeals, since it is the Board that takes action under such procedure.

Upon making a determination upon any matter under his jurisdiction, a Zoning Administrator shall forthwith place a copy of his findings and determination on file in the City Planning Department of City Planning and furnish a copy of the determination to the applicant; and the Board, Department of Building and Safety Commissioners and the Director of Planning. Such determination shall be final, except that ~~an appeal may be taken as hereinafter provided. No variance granted~~ no determination by a Zoning Administrator, other than a slight modification from in yard or area requirements, shall become effective until the the expiration of an elapsed period after mailing notice to the applicant, which period shall be specified by ordinance. During this period an appeal from the determination of a Zoning Administrator may be taken to the Board of Zoning Adjustment by any person aggrieved, or by an officer, board, department or bureau of the city, as hereinafter provided in this chapter. An appeal shall stay all proceedings in furtherance of the action appealed from pending its determination disposition.

The proposed revision of this paragraph simplifies it without change in its substance. The enumeration of those who may file an appeal is proposed to be deleted since we propose that it be covered in Section 99 concerning the Board of Zoning Appeals.

(4) The Office of Zoning Administration may adopt such rules as it may deem necessary to carry out the rules and regulations prescribed by ordinance and which are not in conflict or inconsistent therewith. All such rules and regulations shall be available for inspection in the Office of Zoning Administration.

This proposed provision authorizes the Office of Zoning Administration to establish its own rules (Recommendation 16). Although there is probably no question but what this

authority exists in any case, this provision will parallel a similar provision now in the Charter pertaining to the Board of Zoning Adjustment.

BOARD OF ZONING APPEALS

The present Charter Sections 98½, 99 and 99¼ all pertain to the Board of Zoning Adjustment. It is proposed that these provisions, as revised, be consolidated in one new Section 99.

A basic recommendation in our first report is that the Charter be amended "to change the title of the Board of Zoning Adjustment to its original designation as the Board of Zoning Appeals and to limit the jurisdiction of the Board to appeals from determinations of Zoning Administrators. The Board should not have jurisdiction over matters outside the proper scope of its appellate function." (Recommendation 15.)

We are seriously concerned with the manner in which the Board of Zoning Adjustment has functioned in recent years and with the present assignment of jurisdiction and functions to the Board.

In 1941 a Charter amendment created a Board of Zoning Appeals consisting of three citizens with the sole function of considering appeals from decisions of the Zoning Administrator. A 1963 Charter amendment expanded the Board to five members, changed its name to the Board of Zoning Adjustment and provided that the City Council may, by ordinance, transfer certain functions from the City Planning Commission to the Board. Pursuant to this provision, the Board has been delegated the responsibility for acting upon building lines and reviewing public property acquisitions and dispositions, parcel maps and private street maps in addition to its basic responsibility for zoning administration appeals.

While recognizing that these changes were designed to relieve the City Planning Commission of a heavy workload of minor decisions and enable it to deal more effectively with major planning issues, this change has produced a confused pattern of decision-making and handling of appeals among the various

categories of planning and zoning matters. The assignment of these additional duties makes it difficult for Board members to distinguish clearly the differing criteria for decision on the various types of cases.

The essential function of the Board is to consider appeals in quasi-judicial matters. A proper judicial approach is limited to reviewing decisions made by others (in this case by Zoning Administrators) and interpreting the legislatively established regulations according to the criteria set forth in the regulations.

The proposed Charter revisions are designed to re-establish and protect the Board of Zoning Appeals as a strictly quasi-judicial body functioning only for the purpose of correcting any improper action by the Office of Zoning Administration. Our comments on pages 25 and 26 concerning the proposed deletion of Charter Section 97(4) are also pertinent to our proposed revision of Section 99 which follows.

~~Sec. 98½:~~

Sec. 99. Board of Zoning Appeals

(1) There is hereby created as a quasi-judicial body a Board of Zoning Adjustment Appeals

The name of the Board is proposed to be changed as recommended — from Board of Zoning Adjustment to Board of Zoning Appeals. It is proposed that the term "quasi-judicial" be used to emphasize the proper role of the Board.

consisting of five ~~(5)~~ members, who shall be appointed by the Mayor subject to confirmation of the Council; ~~one of whom may be a member of the City Planning Commission.~~ The terms of the members of said Board shall be ~~for five (5) years, except that the terms of the present members of the Board of Zoning Appeals on the effective date of this section shall continue for the balance of the respective terms for which they were appointed.~~ One such term shall expire on June

30 of each year, ~~except that the initial terms shall be of the following duration: one shall expire on June 30, 1963, one shall expire on June 30, 1964, one shall expire on June 30, 1965, one shall expire on June 30, 1966, and one shall expire on June 30, 1967.~~ In case of any vacancy, other than one resulting from the expiration of a term, a successor shall be appointed for the period of the unexpired term vacated. The members of the Board of Zoning Appeals Adjustment in office on the effective date of this amendment shall continue in office as members of the Board of Zoning Adjustment Appeals for their then unexpired terms.

Present provisions relating to the initial terms on the existing Board are proposed to be deleted since they are no longer needed. Provision should be made for continuity of the existing membership of the Board of Zoning Adjustment as it shifts over to become the new Board of Zoning Appeals.

Three members shall constitute a quorum of the Board of Zoning Appeals, and the concurring vote of at least three members shall be necessary in the determination of any matter.

This provision is presently contained at the end of Section 99 1/4.

The members of said the Board shall receive such compensation as the Council may from time to time fix and determine, by ordinance, and they shall be exempt from the Civil Service provisions of this Charter.

There is no change in this provision.

~~Sec. 99.~~

(2) The Board of Zoning Adjustment Appeals shall have and exercise only the following powers:

It is proposed that the word "only" be added to clearly limit the powers of the Board to appeals or transfers of jurisdiction from the Office of Zoning Administration and nothing

else. This wording is essential to prevent additional functions from being assigned to the Board as has been done under present Charter provisions.

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(a) ~~To Hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision, interpretation or other determination made by a Zoning Administrator, either initially or in the determination of any appeal from the Department of Building and Safety as provided for in Section 98 of this Charter, in the enforcement of the provisions of any ordinance adopted by the Council creating zoning districts or regulating the use of property in the City.~~

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(b) ~~To hear and determine appeals from the rulings, decisions and determinations of a Zoning Administrator granting or denying applications for variances from any rule, regulations, restriction or requirement of the zoning ordinance, or any section thereof. Hear and make determinations on any matter normally under the jurisdiction of a Zoning Administrator when such matter has been transferred to the jurisdiction of the Board pursuant to a request for transfer because a Zoning Administrator has failed to act within the time limits prescribed by ordinance.~~

The enumeration of the Board's powers may be simplified since under our recommendation all matters must come to the Board from the Office of Zoning Administration and can be brought to the Board only by appeal or transfer of jurisdiction.

(3) Appeals may be taken to the Board of Zoning Appeals by an applicant, any person aggrieved, the Director of Planning or the City Planning Commission. Such appeal shall set forth in writing wherein the appellant believes there was error or abuse of discretion on the part of a Zoning Administrator.

Proposed Subsection (3) contains various Charter limitations on appeal proceedings (Recommendation 22).

Those persons who are eligible to file an appeal are enumerated. Since either an applicant or a person aggrieved might not include those who are concerned with broad City-wide implications of a Zoning Administrator's decision, provision is made for either the Director or the City Planning Commission to file appeals. This prerogative might be exercised, for example, if an element of the General Plan were threatened by a Zoning Administrator's decision or if there were other plans being prepared by the Department or Commission which had not been properly evaluated in the initial consideration.

We have considered suggestions that any officer or board of the City be empowered to file appeals. However, we believe that any such officer or board, other than the Director of Planning or the Planning Commission, who might justifiably have reason to appeal would be a person aggrieved and therefore would be included within the scope of our proposed Charter provision.

The Board of Zoning Appeals, when considering an appeal from an action by a Zoning Administrator, shall base its determination only upon (a) the evidence and testimony introduced at the hearing, or hearings, if any, before the Zoning Administrator on the issue, (b) the record, findings and determination of the Zoning Administrator, and (c) the consideration of arguments, if any, presented to the Board orally or in writing. If an applicant or aggrieved person wishes to offer into the proceedings any new evidence including testimony in connection with the mat-

ter, a written summary of such evidence together with a statement as to why such evidence could not reasonably have been presented to the Zoning Administrator at the earlier hearing, all declared under penalty of perjury, shall be filed with the Board. If the Board determines that such evidence could not reasonably have been presented at the earlier hearing and is of such a nature as might reasonably have led to a different determination by the Zoning Administrator, the Board shall remand the matter to the Zoning Administrator who shall reopen the matter at a hearing limited to the receipt of evidence summarized to the Board together with evidence from other parties relative thereto, and, within such time as shall be prescribed by ordinance, make a new order, requirement, decision, interpretation or other determination in the matter. In considering appeals, the Board of Zoning Appeals shall be subject to the same limitations as are placed upon Zoning Administrators by this Charter and by ordinance.

The purpose of appeals is frequently misunderstood. The only reason for conducting appeal proceedings is to correct the possible errors of an agency or office which has been given power to take certain actions—to insure that such an agency continues to operate within its assigned authority and responsibility. It is not the proper function of an appeal agency to duplicate the functions of the agency from which the appeal is made. To do so is wasteful of time and money and opens the door to inconsistency and unfairness between the actions of the two agencies.

The first determination by the appeal body should be whether or not the original decision-maker had sufficient information upon which to base a decision. If pertinent facts were not disclosed in the original application, investigation and hearing, there has not been a full opportunity for reaching a sound decision in the first instance. In this circumstance the original proceeding is incomplete

rather than erroneous. Rather than substitute its own judgment based on different information, the appeal body should, in such a situation, return the matter to the original authority for reconsideration in light of the full facts of the case. To do otherwise is to invite the withholding of information simply for the purpose of justifying an appeal—in effect bypassing the agency having original jurisdiction.

The next question for the appeal body is whether or not the original decision has exceeded the bounds of the law, regardless of whether the appeal body agrees with the decision. For this purpose, the findings of the original authority must be examined to determine if they demonstrate a suitable relationship between the facts of the case and the conclusions reached. If the decision is found to be reasonable and proper in the circumstances, the appeal body is not justified in substituting its own judgment for that of the original authority.

The key requirement to maintain proper appeal procedure, therefore, is to prohibit the appeal body from considering matters *de novo*, that is, on the basis of new information or arguments. Instead, each appeal should be considered entirely on the basis of the record of the original proceeding.

Finally, if the appeal agency determines that the original decision was in error, it must be guided in reaching its own decision by the same laws, policies and standards established to guide the Zoning Administrators.

We found that in the past the Board of Zoning Adjustment has granted too many appeals in disregard of these principles—hence, these proposed Charter restrictions.

~~Upon the hearing of such appeals said Board may affirm, change or modify the ruling, decision or determination appealed from, or in lieu thereof, make such other or additional determination as it shall deem proper in the premises, subject to the same limitations as are placed upon the Zoning Administrators by this Charter.~~

The Board may modify or reverse a determination of a Zoning Administrator only upon making written findings setting forth specifically wherein the determination of the Zoning Administrator was in error or constituted an abuse of discretion, and shall make specific written findings supporting any modification or reversal.

A stronger emphasis on written findings is necessary in order for zoning procedures to operate as they should. For appeal decisions which modify or reverse previous decisions, there must be two types of findings: first, those showing error in the original determination; and second, those supporting whatever revised decision is made.

This proposed Charter provision is more stringent than the present provision which merely authorizes the Board to make such determination "as it shall deem proper in the premises." The new provision would require that the Board of Appeals thoroughly explain the reasoning for its decisions and would assist the courts in adequately reviewing actions of the Board and invalidating unwarranted appeals should they be granted.

(4) The Board of Zoning Appeals, upon assuming jurisdiction of a matter after a transfer of jurisdiction from a Zoning Administrator, shall follow the same procedures and be subject to the same limitations applicable to a Zoning Administrator, and when the Board assumes jurisdiction the Zoning Administrator shall lose jurisdiction except that the matter may be remanded to the Zoning Administrator, or the Board may accept applicant's request for withdrawal of such transfer of jurisdiction, in which cases the Zoning Administrator shall regain jurisdiction for the time and purpose specified by the Board. If the Board retains jurisdiction the Office of Zoning Administration shall make investigations and furnish reports upon such matters as the Board may request. When a matter is requested to be transferred, the Zoning Administrator may file

with the Board a statement of facts pertaining to the matter, and shall transmit to the Board the files in the case.

The transfer of jurisdiction procedure is intended to enforce timely completion of proceedings and decisions by the Zoning Administrators. This proposed provision is essentially the same as that presently contained in Charter Section 98.

In the past there have been some abuses of this transfer procedure wherein the Board has not applied the same care to the consideration of transferred cases as normally would have been exercised by the Office of Zoning Administration. In order to protect against such abuses, this revised provision emphasizes the Board's responsibility to follow the same procedures as are applicable to Zoning Administrators (Recommendation 23). Provision is also made for a Zoning Administrator to file information with the Board even if such information is not requested.

~~(c) Such additional powers as may be delegated to it under authority of Section 97 of this Charter.~~

Present Charter Section 99(c) which refers to other powers which may be assigned to the Board is proposed to be deleted since we strongly recommend that the Board not have powers outside its basic quasi-judicial appellate function (Recommendation 15). This subject is discussed on pages 25 and 26 in connection with our proposed deletion of present Section 97(4).

~~Sec. 99 1/4~~

(5) The Council, within the limitations established by this Charter, shall may prescribe by ordinance rules and regulations providing for the time, manner, method and procedure for the hearing and determining of the matters under the jurisdiction of said board; the Board of Zoning Appeals. provided, however, that The Board may adopt such other and additional rules as it may deem necessary to carry out

the rules and regulations prescribed by ordinance and which are not in conflict or inconsistent therewith. All ~~said~~ such rules and regulations shall be kept posted available for inspection in the office of the Board and a copy thereof furnished to any applicant.

There is no substantive change proposed in this paragraph, except to require that the rules of the Board be available for inspection rather than requiring that they be posted and a copy furnished to any applicant. Public posting of notices seldom has proven to be an effective way of furnishing information. It is expected that copies of official rules would ordinarily be available for public distribution, but this depends upon budgetary resources which cannot be guaranteed (Recommendation 16):

~~These members shall constitute a quorum, and the concurring vote of at least three members shall be necessary in the determination of any matter.~~

It is proposed that this sentence referring to a quorum and vote for decision be incorporated in our proposed Section 99(1).

~~Sec. 99 1/4. In the event of the adoption of a charter amendment creating a Board of Administrative Appeals all appeals which are to be taken to the Board of Zoning Appeals, as hereinabove provided, shall be taken to the said Board of Administrative Appeals, and wherever the term "Board of Zoning Appeals" is hereinabove used it shall be taken to mean "Board of Administrative Appeals," and Section 98 1/4, creating said Board of Zoning Appeals, shall be inoperative for any purpose.~~

This existing section contemplated the possible establishment of a Board of Administrative Appeals to handle various appeal matters throughout the City government. However, since such a Board has never been created, and could only be created by further Charter amendment, there is no need to retain this ineffective Charter provision.

CHAPTER 2

AMENDMENTS TO PLANNING AND ZONING PROVISIONS OF THE MUNICIPAL CODE

One of our major recommendations is that a complete revision of the Zoning Code be undertaken (Recommendation 5). This work has recently been initiated and is expected to require at least two years for completion. In the meantime, a number of changes can and should be made now in the present Zoning Code and in certain other sections of the Municipal Code. These changes are of two types:

1. Code provisions required to implement the proposed Charter provisions set forth in Chapter 1.
2. Other Code provisions to carry out our various recommendations, but not dependent upon Charter amendments.

We have reviewed the planning and zoning sections of the Municipal Code to identify the provisions we believe should be revised or supplemented in the near future in accord with our recommendations. This Chapter outlines the nature of these proposed Code changes. For some Code sections we provide suggested text, while for other sections we merely indicate the proposed subject matter by means of headings and notes in brackets. All of this material should be viewed as a preliminary outline which is designed to assist the staff of the Planning Department in developing final drafts of ordinances. In the material which follows, the outline and suggested text of Code provisions are supplemented by explanatory comments. The Code material is indented and identified by the symbol # in

the left margin. Also, the Code revisions are grouped by subject rather than arranged in sequence by section numbers. Thus, all sections which should be amended in connection with each subject are identified under each subject heading.

GENERAL PLAN CODE

Recommendation 1 calls for improved Charter provisions concerning the General Plan, supplemented by "a section of the Municipal Code defining the required content and form of the General Plan and prescribing the specific procedure for its adoption and amendment." Recommendation 2 is concerned with such procedure, and Recommendation 3 proposes scheduled area-by-area consideration of the General Plan. To put these recommendations into effect, a new section of the Municipal Code should be adopted to govern the preparation, consideration, and adoption of the General Plan—a General Plan Code. Note, however, that the General Plan itself is not to be adopted by ordinance and therefore could not be included within the Code. The General Plan Code would only prescribe the means by which a separate document—the General Plan—is to be created and maintained.

The Planning Department should proceed to draft a General Plan Code for consideration by the Planning Commission and City Council. We do not attempt to outline such a Code here, but among the matters to be included are the following:

1. Repeat and expand upon the new Charter provisions contained in" proposed Charter Sections 9d-5 and "96.6.

2. Enumerate the subject elements to be included in the General Plan. In addition to the proposed Charter-required elements^; land use, circulation, and service-systems—strong arguments have been presented for including a housing element and a conservation element.

3. Define the elements or aspects of" the General Plan subj'ect to area-by-area preparation and review.

4. Provide for the division of the' City into geographic areas for the purpose of area-by-area consideration. These areas or subdivisions thereof should also apply to proceedings for changes in the Zoning Map.

5. Providp for the scheduling of the preparation, consideration and review of the General Plan by subject elements and by geographic areas.

6. Specify requirements concerning public hearings including the means of notification and the time limits Involved. /6 S.G- £

7. Specify the time limit In connection -with proposed changes referred back to the Planning Commission by the City Council1.^

8. Specify the time limit for ftnaf'action by the City Council".

9. Prescribe minimum requirements for the publication and availability of the General Plan document.

PROCEDURAL CODE

.We recommend the amendment of the Municipal Code ""to provide simpfe and uniform procedural requirements governing applications, notices, hearings, time limits and appeals for all types of planning and zoning cases." (Recommendation 16.) This could be accomplished by placing standard provisions on procedure in Article 9 of Chapter 1 of the Municipal Code—an article which at present deals primarily with fees, for planning matters. Once such a procedural code is available, many

other sections of the planning and zoning regulations could be greatly simplified. It is desirable that the Procedural Code be adopted ' at an early date so that Its provisions can be relied upon In preparing Municipal Code amendments to carry out other recommendations, thus avoiding the need to repeat procedural provisions as part of these other amendments. The Procedural Code should include provisions to carry out our specific recommendations concerning a notification subscription service {Recommendation 181, testimony under oath (Recommendation IP), verbatim records (Recommendation 20), written findings {Recommendation 21), appeals (Recommendation 22), transfers of jurisdiction (Recommendation 23), and City Council action. (Recommendation 28).

We, therefore, suggest the repeal of the present Article 9 and the substitution of a new Article 9 drafted along the following lines:

' Chapter 1*—Article 9'

' PROCEDURES AND FEES

Sec. 19.00 APPLICABILITY

The'provisions of this Article shall apply to all proceedings initiated pursuant to the provisions of Articles 2 through 8 of this Chapter to the extent that the procedures described in this Article are called for and are not in conflict with other, provisions of this Chapter.

Sec.-19.01 DEFINITIONS

' Agency—Any officer, board, com- * mission or other official body.

- Application—Any application, request, order, resolution or other bona-fide action or document submitted for the purpose of initiating an official proceeding, but not including the in- ification of a matter by the agency Which has original jurisdiction over the matter involved..

Determination — Any decision or recommendation required of an agency having jurisdiction in a matter.

Sec. 19.02 FILING OF APPLICATIONS

A. **Form and Contents.** An application to initiate official consideration of a matter, including an appeal, shall be prepared upon a form, accompanied by such information as may be required, and verified, all in accordance with the provisions of this Chapter and any rules established by the agency having jurisdiction to act upon the matter involved.

B. **Place of Filing.** Applications shall be considered as officially filed only when received at those regular public offices of the City designated for this purpose by the agency having jurisdiction to act upon the matter involved. Such designation shall be based upon considerations of public convenience and the availability of adequate personnel and facilities.

C. **Filing Date.** An application shall be considered as officially filed when it has been completed in accordance with the applicable rules and regulations, has been submitted at a designated office together with the required filing fees, and a receipt for said filing fees has been issued. If at any time during the processing of an application it is discovered that an application has been improperly prepared or required pertinent information has not been submitted in accordance with the previously established rules, upon notification to the applicant by the appropriate officer or employee the applicable time limits shall be suspended and not continue to run until the application has been rectified or the omitted information furnished in a proper manner.

Sec. 19.03 NOTIFICATION

Notification of the time, place and purpose of public hearings or other events in the consideration of a matter shall be made in one or more of the following manners if called for by the provisions of this Chapter or by the rules of the agency having jurisdiction:

A. **Applicant.** By mailing of a written notice not less than 10 days prior to the day of hearing or other event, to the address furnished for this purpose on the application or subsequently provided by the applicant.

B. **Surrounding Property Owners.** By mailing of a written notice not less than 10 days prior to the day of hearing or other event, to the owners of all property adjacent to the property involved, using for this purpose the last known names and addresses of such owners as shown on the records of the City Clerk.

C. **Property Owners in the Vicinity.** By mailing of a written notice not less than 10 days prior to the day of hearing or other event, to the owners of all property within 300 feet of the exterior boundaries of the property involved, using for this purpose the last known names and addresses of such owners as shown on the records of the City Clerk. Where all property within the 300-foot radius is under the same ownership as the property involved in an application, the owners of all property which adjoins the property in the same ownership as that involved in the application, or is separated only by a street, alley, public right of way or other easement, shall be notified.

D. **Newspaper.** By at least one publication in a newspaper of general circulation in the City, designated for that purpose by the City Council, not less than 10 days prior to the day of hearing or other event.

E. Posting. Upon request of the agency having jurisdiction, the Board of Public Works shall cause copies of the notice of hearing or other event to be posted not less than 10 days prior to such event. Said Board shall post at least three notices . . . [Continue with requirements similar to existing Sec. 14.01B1.]

F. Subscription Service . . . [Provisions should be developed by the Planning Department.]

Sec. 19.04 HEARINGS

A. Conducted By. When a hearing is called for, such hearing shall be conducted by the agency having jurisdiction over the matter involved, or by an examiner or board of examiners designated by such agency.

B. Oaths. All testimony and statements of fact received at required hearings shall be under oath.

C. Record

1. Testimony. All oral testimony received at required hearings shall be recorded verbatim by audio recording device or stenographically. Such record may be either transcribed verbatim or summarized in written form or both. At the request of any party or interested person and upon the payment of any fee required by ordinance, a verbatim transcript shall be prepared and delivered to the requestor. A copy of any such transcript shall be attached to the file on the matter.

2. Other Evidence. Written and graphic evidence may be introduced at any hearing and shall be identified with the file on the matter. At the request of any party or in-

terested person, to the extent feasible, and upon the payment of the costs involved and any fee required by ordinance, reproductions of such evidence may be made and delivered to the requestor.

3. Retention. Records of hearings shall be retained for at least three years.

D. Continuance. Every hearing shall be conducted and completed on the date set unless, for cause, the officer or board conducting the hearing shall on that date continue the matter. No further notice of continuance need be given if the time and place therefor is announced at the time and place for which the hearing was set.

E. Reports. After the conclusion of a hearing conducted by an examiner or board of examiners, such examiner or board shall submit a report to the agency having jurisdiction in the matter within such period of time as may be fixed by such agency, setting forth conclusions and recommendations in writing and stating briefly the reasons therefor.

Sec. 19.05 FINDINGS

Unless specifically exempted by the provisions of this Chapter, each determination shall be supported by written findings showing specifically how the determination meets the criteria and requirements set forth in this Chapter and in the City Charter for determination of the matter involved.

Sec. 19.06 DETERMINATIONS

A. Time Limits. When a proceeding is initiated other than by the agency having jurisdiction, all required proceedings shall be completed and the agency having jurisdiction shall file its report and determination within

50 days of the filing date or such longer period as may be mutually agreed upon between such agency and the applicant.

The above time limit may also be extended unilaterally by the agency having jurisdiction when it is determined and justified in writing that a valid reason exists for delay in order to obtain legal opinion or to conduct special research which is essential to determining the matter involved.

B. Record and Notice. The written findings and determination in a matter shall be attached to the file on the matter, a copy shall be mailed or delivered to the applicant, and copies shall be sent to such other agencies as may be required to take notice of the action. Additional copies may be sent to other interested parties.

C. Effective Date. If subject to appeal, a determination shall be effective upon the close of the appeal filing period if no appeal is filed. If a determination is not subject to appeal, it shall be effective on the fifth day after mailing required notice of the determination, unless otherwise provided in the determination or by the provisions of this Chapter.

Sec. 19.07 APPEALS

A. Appellants. An appeal may be filed only by the applicant, or any person aggrieved, or the City Planning Commission, or the Director of Planning.

B. Basis. An appeal must set forth in writing specifically wherein there was error or abuse of discretion in the determination appealed from.

C. Filing Period. When a determination is subject to appeal, any such appeal must be filed within 20 days of the date on which the determination is issued except that when the final

day for filing an appeal falls on a Saturday, Sunday or legal holiday, the time for filing such appeal shall be extended to the close of business on the next succeeding working day.

D. Filing Date. For the purpose of determining time limits applicable to appeal proceedings, the last day of the appeal filing period shall be considered to be the filing date of any appeal.

This provision is merely to avoid any confusion in computing time limits in those cases where more than one appeal is filed on the same matter.

E. Appeal Proceedings. Except as otherwise provided in this Chapter, appeal proceedings shall be governed by the requirements of this Article pertaining to applications, notification, hearings, findings, determinations, time limits and fees. When an appeal is filed, the agency having original jurisdiction shall transmit its record of the matter to the appellate agency within 5 days after the end of the filing period.

F. Consideration. An appellate agency shall base its determination only upon the evidence and testimony introduced at the hearing or hearings, if any, held by the agency having original jurisdiction, and upon the record, findings and determination of such agency, and after consideration of arguments, if any, presented to the appellate agency. If an applicant or aggrieved person wishes to offer into the proceedings any new evidence, including testimony, a written summary of such evidence, together with a statement as to why such evidence could not reasonably have been presented during the original consideration, all declared under penalty of perjury, shall be filed. If the appellate agency determines that such evidence could not reasonably have been presented earlier and is of such nature as might reasonably

have led to a different determination, the matter shall be remanded to the agency having original jurisdiction which agency shall reopen the matter at a hearing limited to the receipt of such evidence together with any new evidence from other interested parties, and within 50 days of the remand or such time as may be prescribed by the appellate agency, make a new determination.

In determining its action on an appeal, an appellate agency shall be subject to the same limitations, considerations, criteria and requirements as are placed by Charter and ordinance upon the agency having original jurisdiction.

G. Findings. Before granting an appeal in whole or in part, an appellate agency shall make written findings setting forth specifically wherein there was error or abuse of discretion in the original determination in addition to making those findings required to support any new or revised determination of the matter.

Proposed Subsections F and G, above, conform with proposed Charter Section 99(3).

H. Failure to Act. Except in the case where the City Council is the appellate agency, failure of an appellate agency to make a determination within 50 days of the last day for filing an appeal, or such longer period as may be mutually agreed upon between the appellate agency, all appellants, and the original applicant shall constitute denial of the appeal.

Sec. 19.08 TRANSFERS OF JURISDICTION

A. Transfer Action. When an agency having jurisdiction in a matter fails to act within the prescribed time limit, the applicant may file a request for a transfer of jurisdiction to the appellate agency, if any, for a determina-

tion of the original application by such appellate agency. In such case the appellate agency shall assume jurisdiction and shall follow the same procedures and be subject to the same limitations and requirements applicable to the agency having original jurisdiction. When the appellate agency assumes jurisdiction the agency having original jurisdiction shall lose jurisdiction in the matter except that the matter may be remanded, or the appellate agency may accept the applicant's request for withdrawal of the transfer, in which cases the agency having original jurisdiction shall regain jurisdiction for the time and purpose specified by the appellate agency. If the appellate agency retains jurisdiction, the agency having original jurisdiction shall make such investigations and furnish such reports as the appellate agency may request. When the appellate agency assumes jurisdiction, the agency having original jurisdiction shall transmit the files in the matter to the appellate agency and may file a statement of facts pertaining to the matter.

Proposed Section 19.08A, above, conforms to proposed Charter Section 99(4).

B. Procedure. When a matter is transferred, the agency assuming jurisdiction shall be governed by the same procedural requirements as apply to an original proceeding. The applicable time limits shall be measured from the date on which the transfer request is filed.

C. Failure to Act. Failure to act within the prescribed time limit after transfer shall constitute denial of the original application.

Sec. 19.09 ADDITIONAL RULES

With respect to matters governed by the provisions of this Chapter, each agency involved may adopt such rules as are not in conflict with the provisions of this Chapter and the City

Charter. Any such rules must be available for inspection in the regular public offices of the agency and a copy furnished to any person upon request.

Proposed Section 19.09, above, would supplement the provisions of proposed Charter Sections 98(4) and 99(5).

Sec. 19.10 CITY COUNCIL ACTION

Whenever any matter subject to the procedures established in this Chapter is presented to the City Council for action, and until such time as final action is taken, such matter shall be placed upon the agenda of the Council for action by the Council within five days before or after each 90-day period measured from the date of initial receipt by the Council or from the date of the most recent action by the Council, whichever is later.

The above proposed Section 19.10 is intended to prevent unreasonable delays in final Council action on planning and zoning matters. We believe that in most instances the Council acts expeditiously, but apparently on occasion actions have been unduly delayed by holding a file in Committee or in a Councilman's office. Time limits are provided by Charter and ordinance for Planning Department and Commission action on most planning and zoning matters. It is perhaps unwarranted to impose time limits for final legislative action on these same matters, but at least there should be an opportunity for the majority to act within a reasonable time.

Sec. 19.11 FEES . . . [Incorporate existing sections 19.01, 19.02, and 19.03.]

Upon adoption of these standard procedural requirements, the procedural requirements in the following existing sections of the Code can be abbreviated:

- 12.24 B3, C3, (Conditional Uses)⁵
- 12.27 A, B1-5 (Zoning Administrators)⁵

- 12.28 A2-9 (Board of Zoning Adjustment)⁵
- 12.32 B, C, D4-7, E (Zone Changes)
- 13.00 C2-5, 13.01 H (Supplemental Use Districts)
- 14.01 A-D (Building Lines)
- 15.00 D (Public Use Approvals)

With the Procedural Code available, it then would be necessary to indicate only the following procedural information in each of the Code sections dealing with a particular type of matter, such as conditional use, variance, and zone change:

Applications—who can file?

Hearings—whether or not one is required and type of notification called for.

Appeals—who can file if different from standard provisions, and the name of the appellate agency.

Any other special requirements.

ZONING MAP CHANGES

One of our most significant recommendations is that there be established "a procedure for review and revision of the Zoning Map of the City on a regularly scheduled area-by-area basis, such schedule and areas to be established by the City Council upon recommendation of the Director of Planning and the City Planning Commission." (Recommendation 6.) Our proposed Charter Section 96.6 would require that such an area-by-area zone change procedure be provided for by ordinance. To accomplish this we suggest the Planning Department draft provisions to be substituted for the present provisions of Sections 12.32D1 and D2 concerning time limits for acting on zone change matters. The new provisions should:

1. Provide for division of the City into areas for the purpose of consideration of zoning map changes. The areas should be either

⁵Present Code sections proposed to be rewritten in connection with other Citizens Committee recommendations.

the same areas designated for General Plan review or subdivisions of those areas.

2. Provide for the scheduling of the hearings and determinations by area.

3. Set forth the criteria for permitting individual cases to be considered other than at the scheduled time and specify the procedure by which the Planning Commission may authorize such out-of-turn proceedings.

Another of our recommendations requires specific findings to be made in zoning cases to show that the action taken "is in substantial conformance with the purposes, intent and provisions of the General Plan." (Recommendation 4 and proposed Charter Section 96.5(5).) With respect to zone changes, a requirement to this effect should be inserted in Section 12.32A of the Zoning Code.

Also, in order to carry out Recommendation 29 regarding the identification of legislative matters, we suggest the addition of the following definition to Section 12.03 of the Zoning Code:

Amendment. A legislative change in wording, context or substance of this Code, or a change in the zone boundaries upon the Zoning Map, which Map is part of this Code when adopted hereunder.

OFFICE OF ZONING ADMINISTRATION

To conform to the proposed amendments to Section 98 of the City Charter concerning the functions of the Office of Zoning Administration, the Code section concerning this Office must be substantially revised. This revision could be accomplished according to the following outline:

Sec. 12.27 OFFICE OF ZONING ADMINISTRATION

A. Organization and Management
[Retain first paragraph of existing Section 12.27 and then add:]

Section 98(4) of the City Charter provides that: "The Office of Zoning

Administration may adopt such rules as it may deem necessary to carry out the rules and regulations prescribed by ordinance and which are not in conflict or inconsistent therewith. All such rules and regulations shall be available for inspection in the Office of Zoning Administration."

B. Authority. Pursuant to Section 98 of the City Charter, a Zoning Administrator shall have the power and duty to:

1. Appeals . . . [Copy proposed Charter Section 98(2)(a).]
2. Conditional Use Permits . . . [Copy proposed Charter Section 98(2)(b).]
3. Planned Developments . . . [Copy proposed Charter Section 98(2)(c).]
4. Variances . . . [Copy proposed Charter Section 98(2)(d).]
5. Classification of Uses . . . [Copy proposed Charter Section 98(2)(e). See present Code Section 12.21A2.]
6. Slight Modifications . . . [Copy proposed Charter Section 98(2)(f).]
7. Other Determinations. Make such other determinations as are authorized by the provisions of this Chapter, including the following:
 - a. Yard Interpretations . . . [Copy present Code Sec. 12.27C1.]
 - b. Fences . . . [Copy present Code Sec. 12.27C2.]

To conform to the above renumbering, a correction is required in present Code Section 19.01E regarding fees so that the reference to Section 12.27C becomes a reference to Section 12.27B7.

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C. Variances.

1. Findings Required . . . [Copy requirements for findings from proposed Charter Section 98(2)(d).]
2. Continuance of Variance or Exception . . . [Copy present Code Sec. 12.27B6.]
3. Discontinuance . . . [Copy present Code Sec. 12.27B7.]

D. Slight Modifications — Limitations . . . [See present Code Sec. 12.27B4. Add criteria and standards.]

E. Procedures. Except as otherwise provided in this Chapter, the Office of Zoning Administration, in carrying out any of the powers and duties enumerated in Subsection B of this Section, shall follow the procedures set forth in Article 9 of this Chapter subject to the following rules:

1. Applications . . . [See existing Code Sec. 12.27B2.]
2. Hearings . . . [Specify when required and the type of notification required. See present Code Sec. 12.27B3.]
3. Determinations . . . [See present Code Sec. 12.27B4.]
 - a. Regular . . .
 - b. Slight Modification . . .
 - c. Rulings . . . [Copy present Code Sec. 12.27D.]

F. Foster Care Homes and Day Care Homes. [Copy present Code Sec. 12.27E. Eventually these provisions should be incorporated in the conditional use or similar sections of the Code.]

Since provision is made for the classification of land uses under proposed Section 12.27B5 above, the present authority for this function as set forth in Section 12.21A2 may be repealed.

It is also suggested that the following definition be added to Section 12.03 of the Zoning Code:

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Variance. An adjustment in the application of the specific regulations of the Zoning Code to a particular piece of property which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and which adjustment remedies disparity in privileges; provided, however, a variance may involve modifications of permissible uses for specific limited periods of time when related to initial land development, or for essential public purposes, or for replacement of certain damaged nonconforming buildings and structures; and provided that the requirements of the City Charter with respect to variances are satisfied.

BOARD OF ZONING APPEALS.

Under our Recommendation 15 and proposed Charter Section 99 the Board of Zoning Adjustment would be renamed the Board of Zoning Appeals and its strictly quasi-judicial function protected by more stringent requirements concerning appeal procedure. These changes will require revision of Code Section 12.28 and numerous other references to the Board throughout the Zoning Code and other planning regulations.

#

Sec. 12.28 BOARD OF ZONING APPEALS

A. Authority. Section 99(2) of the City Charter provides that: "The Board of Zoning Appeals shall have and exercise only the following powers:

- (a) Hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision, interpretation or other determination made by a Zoning Administrator.

- (b) Hear and make determinations on any matter normally under the jurisdiction of a Zoning Administrator when such matter has been transferred to the jurisdiction of the Board pursuant to a request for transfer because a Zoning Administrator has failed to act within the time limits prescribed by ordinance."

The Board of Zoning Appeals is the successor to the Board of Zoning Adjustment and shall assume jurisdiction over all matters properly submitted to the Board of Zoning Adjustment at the time of succession.

B. Procedure.

1. Proceedings under the jurisdiction of the Board shall be in accordance with the provisions of Article 9 of Chapter 1 of the Municipal Code.
2. In each case appealed to the Board, notifications of Board hearings and distribution of Board determinations shall be the same as that made in the original proceeding; provided, however, that the Board may authorize such additional notification and distribution as it may deem appropriate.
3. All determinations of the Board shall be final and may not be appealed to any other agency of the City.

C. Rules of the Board . . . [Provisions similar to present Code Sections 12.28D1, 2 and 3 and consistent with proposed Charter Section 99(5) which authorizes the Board to establish rules.]

Numerous references to the Board appear throughout the Code which should be changed as necessary, including the following:

Change "Adjustment" to "Appeals" in Sections 12.03 (Board of . . .) and 12.50D.

Delete "Board" in Sections 14.01, 15.00-B,C,D,E,F, 17.02 (Board), 18.01 and 18.08.

Change "Board" to "Commission" in Sections 17.02 (Appeal Board) and 18.12.

CONDITIONAL USES

Our greatest concern is for the proper handling of conditional use matters. The fundamental principle that each citizen and property owner is entitled to equal treatment under the law requires the consideration of conditional use cases as administrative actions taken within legislative guidelines. The mistaken notion, too prevalent in the past, that the conditional use procedure is a means of granting exceptions, or of legislating on an individualized basis, is a mockery of justice. Under Recommendation 7 we propose two basic corrective measures:

1. Legislative establishment of uniform regulations and criteria to govern conditional uses.

2. Clear designation of action upon individual conditional use permits as an administrative matter under the jurisdiction of the Office of Zoning Administration, with initial appeal to the Board of Zoning Appeals and any further appeal only to the courts.

The second point is provided for in our proposed Charter Sections 98 and 99 and proposed revisions of Zoning Code Sections 12.27 and 12.28. Under these proposals, the Board of Zoning Appeals would be strictly limited to its proper role as an administrative/quasi-judicial appeal body, in contrast to the present Board of Zoning Adjustment which at times has improperly assumed a legislative role.

The first of the above points—legislative establishment of uniform regulations and criteria—requires the extensive revision of Municipal Code Section 12.24 to incorporate the

necessary criteria. To accomplish this we suggest the drafting of a new Code Section 12.25 concerning conditional uses. As rapidly as possible criteria should be developed for the various uses involved. As soon as criteria are developed for a use, that use should be deleted from Section 12.24 and added to Section 12.25. Upon completion of this process, present Sections 12.24B1(e), (g), (h) and (i) and all of 12.24C would be deleted. The proposed Section 12.25 might be developed along the following lines:

Sec. 12.25 CONDITIONAL USES

A. Purpose . . . [See existing Section 12.24A.]

B. Uses. A Zoning Administrator may approve the use of property in the zones hereafter indicated for any of the following uses, subject to the regulations, limitations, criteria, standards, conditions and policies established by, or pursuant to, the provisions of this Section:

[List the uses from present Code Sections 12.24B1(e), (g), (h) and (i), 12.24C1 and 12.24C1.5 together with the specific limitations, criteria and standards applicable to each.]

There is considerable confusion over the nature of the limitations, criteria, standards, conditions, policies and other requirements which might be set forth and the manner in which they should be applied. Some basic distinctions should be made:

I. The matters subject to conditional use consideration should be those which require some degree of discretion or judgment in determining whether or not the use is to be permitted in a given situation. By comparison, if it is possible to write a very specific set of standards and it is intended that the use be permitted in every case where these standards are met, then the use should not be subject to a conditional use permit. Such uses should be listed as permitted uses in the appropriate zones, subject to the desired standards, and the Building and Safety De-

partment should automatically permit such uses when the standards are met. An example of such a "limited use" under the present Zoning Code is an automobile laundry or wash rack for which definite noise standards are provided to be directly administered by the Building and Safety Department (Section 12:14A6(b)).

2. For true conditional uses, locational criteria should be distinguished from developmental and operational standards.⁶ Locational criteria are those policies and guidelines set forth in the Code to assist a Zoning Administrator in exercising his judgment as to whether a use should or should not be permitted at a requested location. Examples of locational criteria are:

Compatibility with surrounding land uses including considerations of appearance, hazard, noise, etc.

Functional relationship with surrounding uses including such considerations as:

Possible joint use of common facilities such as parking.

Proximity to related community facilities, customers, suppliers, etc.

Public need for the proposed use in the proposed area.

Availability of suitable access:

Rail.

Highway—effect upon traffic congestion, impact of traffic upon other land uses.

Public Transportation.

Utility requirements — availability of water, sewers, power, etc. without overload.

⁶An excellent example of criteria and standards for particular conditional uses are found in the following brochures published by the San Diego City Planning Department:

Mobilhome and Travel Trailer Parks, June, 1967.
Impound Storage Yards, June, 1966.

On the other hand, developmental and operational standards are those requirements to be met if the use is permitted. Such requirements might include:

Parking—not less than a specified number of spaces.

Landscaping—types and extent of planting.

Building arrangement and height limitations.

Open space—not less than a specified percentage of the total land area.

Fencing requirements.

Control of signs, lighting, etc.

Performance standards—limits on noise, vibration, air pollution.

Hours of operation.

In granting a conditional use, "conditions" are specific regulations imposed upon the use to insure that developmental and operational standards are met and that the use operates within intended limits as to size, character and intensity.

Based upon the above discussion, the Code provisions for each use subject to conditional use approval should include the following:

Name of use.

Zoning classifications in which the use may be permitted.

Limitations upon the use and the site which must be satisfied in order to apply for a conditional use permit.

Locational criteria to be considered in determining whether or not to grant a conditional use permit.

Developmental and operational standards to be imposed as conditions which must be complied with if the permit is granted.

C. General Criteria. In addition to the requirements for each type of use as provided above, a Zoning Admin-

istrator must find that the following criteria and policies are satisfied before granting any Conditional Use Permit:

1. . . [General Plan conformance.]

2.
[etc.]

D. Conditions. In granting a Conditional Use Permit, a Zoning Administrator shall impose such conditions as are deemed necessary to insure compliance with the intent of this Code and the requirements of this Section, to protect surrounding property, and to secure an appropriate development in harmony with the General Plan.

E. Procedure . . . [Refer to the standard procedure in Article 9. State who may file an application. State that a hearing is required in each case and the type of notification required, or give any exceptions.]

F. Existing Uses . . . [Provisions similar to those in present Section 12.24 F.]

G. Development, Change or Discontinuance of Uses . . . [Provisions similar to those in present Section 12.24 G.]

Also, in order to clarify the nature of a conditional use matter, we suggest the following definitions be added in Zoning Code Section 12.03:

Conditional Use. A use permitted in one or more zoning classifications as defined by this Code, but which use because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, requires a special degree of control to assure that

the particular use at the particular site on which such use is proposed to be located is compatible with other existing or permitted uses surrounding the site and to assure that such use shall not be inimical to the public welfare.

Conditional Use Permit. The documented evidence that a Zoning Administrator acting under Charter and Code authority, has granted permission to locate a "conditional use" at a particular location.

PLANNED DEVELOPMENTS

Under our Recommendation 9 and proposed Charter Section 98(2)(c) we propose that the approval of planned developments be identified as a particular type of administrative action to be processed in the same manner as conditional use permits. The purpose of the planned development procedure should be to carry out the basic intent of the requirements for the zone in which the development lies but with flexibility as to the specific regulations applied in order to achieve the best possible environmental quality.

The following is a suggested outline of a new Code Section to govern the approval of planned developments:

Sec. 12.25.1 PLANNED DEVELOPMENTS

A. Purpose

B. Requirements

1. . . . [Requirements applicable to all Planned Developments.]

2. . . . [Additional requirements applicable to Planned Residential Developments. This subsection could include requirements similar to those contained in the proposed RPD ordinance recommended by the City Planning Commission under City Plan Case No. 17155.]

3. . . . [Additional requirements applicable to Planned Commercial and Industrial Developments.]

C. Conditions [Authority for a Zoning Administrator to impose conditions—see proposed Charter Sections 98(2)(b) and (c).]

D. Procedure. The procedure for approving a Planned Development shall be the same as that provided for approving a Conditional Use Permit.

E. Existing Developments [Provisions similar to those in present Section 12.24 F, if required.]

F. Development, Change or Discontinuance [Provisions similar to those in present Section 12.24 G, if required.]

Upon adoption of new provisions for planned developments, the present Code Section 12.24B1(j), which authorizes planned residential developments to be handled as conditional uses, should be deleted.

Also the definition of "Planned Residential Development" in Code Section 12.03 should be revised or deleted, and a definition of "Planned Development" should be added.

UNCLASSIFIABLE USES

An important aspect of our recommendation about conditional uses is that each type of conditional use is to be permissible only in specified zones. We find, however, that a few land uses presently handled as conditional uses cannot be adequately classified by zone. For these few uses we recommend a new category of "unclassifiable uses" and provision for legislative approval of each such use by ordinance (Recommendation 8 and proposed Charter Section 97.2(1)(ii)).

Assuming that a new Code section is enacted to provide for conditional uses in accordance with our recommendations, it would then be possible to repeal the remainder of present Code Section 12.24 and replace it with a new section on unclassifiable uses:

Sec. 12.24 UNCLASSIFIABLE USES

A. Purpose . . .

B. Uses. Each of the following uses may be permitted at such locations as may be specified for such purpose by ordinance, subject to the regulations, limitations and conditions established for such use by the provisions of this Section, by the applicable authorizing ordinance, and by administrative action taken pursuant to such ordinance:

1. Airports, subject to the following requirements:
 - a. . .
 - b. . .[etc.]
2. Cemeteries . . .
3. Educational Institutions . . .
4. Land Reclamation Projects . . .
5. Natural Resource Developments . . .

C. General Criteria. In addition to the requirements for each use as provided above, it must be found that the following criteria are satisfied before adopting an ordinance authorizing any such use:

1. . . [General Plan Conformance.]
 2. . .
- [etc.]

D. Conditions. An ordinance authorizing an unclassifiable use shall include such conditions as are deemed necessary to protect surrounding property, secure an appropriate development in harmony with the General Plan, and carry out the requirements of this Section. Such conditions may include provision for administrative approvals and determinations by the Office of Zoning Administration in

order to carry out the intent of this Code and the authorizing ordinance.

E. Procedure. The procedure for authorizing an unclassifiable use shall be the same as that provided for making a change in the Zoning Map. When effective, the authorized location of an unclassifiable use shall be shown by appropriate symbol upon the Zoning Map.

F. Existing Uses . . . [Provisions similar to those in present Section 12.24 F.]

G. Development, Change or Discontinuance of Uses . . . [Provisions similar to those in present Section 12.24 G.]

Also, it may be desirable to add a definition of "Unclassifiable Use" in Zoning Code Section 12.03.

BUILDING AND SAFETY DEPARTMENT

A possible problem, noted in our first report of July 1968, pertains to the overlapping of authority between the Office of Zoning Administration and the Department of Building and Safety. At present, interpretations as to the proper application of the Zoning Code and the granting of slight modifications in yard and area requirements may be made by either agency. In order to eliminate this overlapping, we suggest the following Code amendments:

Add to Section 12.26A:

- # 3. Whenever any policy determination or interpretation is required by the Department of Building and Safety regarding the meaning or general application of any provisions of the Zoning Code, the Superintendent of Building shall request such determination or interpretation to be made by the Chief Zoning Administrator. The Chief Zoning Administrator shall issue such determination or interpretation within a reasonable time, or may request the

City Attorney to issue an opinion on the matter, or both.

Amend Section 12.26B to read:

B. Yard Areas. Pursuant to the authority contained in Section 93 of the City Charter, the power granted to the Board of Building and Safety Commissioners to make slight modifications in the yard area requirements of the zoning ordinance is hereby abolished.

Note that our proposed Charter Section 98(2)(f) provides a new authority for Zoning Administrators to grant slight modifications in yard and area requirements. This authority, which is proposed to be implemented by revisions to Code Section 12.27, would not be subject to the stringent requirements for granting variances and thus would make it possible for Zoning Administrators to grant reasonable modifications without undue delay.

At present the final sentence of Section 12.26B authorizes the Board of Building and Safety Commissioners to waive loading space requirements in certain situations. We suggest this authority also be transferred to the Office of Zoning Administration and included in Code Section 12.21C6, which contains other regulations on loading spaces.

SUGGESTED CHANGES IN TERMINOLOGY

Zoning Code. The phrase "Comprehensive Zoning Plan" appears in the following sections of the present Code:

12.00	13.00
12.02	13.01H
12.04E	13.03A
12.24A ²	17.50

For simplicity and to avoid confusion with the "Comprehensive General Plan," these references should be changed to refer to the "Zoning Code."

Municipal Code. At many places in the present Code, reference is made to "this Code," meaning the Municipal Code. In a number

of such cases the reference is to a section of the Building Code. It is suggested that such references say "Municipal Code" or "Building Code," etc., in order to make it clear that the reference is not to another part of the Zoning Code.

General Plan. The term "Master Plan" appears in the following sections:

12.02	12.32A
12.03	12.37
(Highway— Major)	13.00C
12.03	14.00
(Highway— Secondary)	15.00E
12.04F	17.02
12.07 C4	(Highway— Major)
12.07.01 C4	(Highway— Secondary)
12.07.1 C4	(Master Plan)
12.08 C4	17.05C
12.21 C1(h)	17.50
12.22 A5	17.52 A2, A3
12.24A ²	18.01 (Major Highway)
12.24 B2, C1, C1(q), C1.5, C1.5(d), C2 ²	18.05A, K

In some cases the reference is something like "the Master Plan of Highways as approved by the Commission." In most, if not all cases, the reference should simply be to the "General Plan." If necessary, reference could be made to an element such as "the circulation element of the General Plan." Any reference to who approves the Plan should be dropped. A definition of "General Plan" could be added to Section 12.03 to make it clear that the General Plan is an official document adopted by the Council pursuant to the Charter and the proposed General Plan Code.

Subdivision Code. Section 17.00 of the Municipal Code uses the title "Division of Land Regulations" to include both subdivision and parcel map regulations. For simplicity and

²Present Code sections proposed to be rewritten in connection with other Citizens Committee recommendations.

comparability with the title of the State Subdivision Map Act, the term "Subdivision Code" might be used in place of "Division of Land Regulations."

Section 17.00 also refers to the subdivision regulations as part of the "City's Community Design Plan." This apparently refers to the Community Design Element of a General Plan

as mentioned in the State Planning Law; but, since the subdivision regulations should not be considered as part of the General Plan, this reference to a "Community Design Plan" should be dropped. The first paragraph of Section 17.01B also refers to "Community Design Plan" and this should be changed to "General Plan."

CHAPTER 3

CONDUCT IN OFFICE—CHARTER AND CODE AMENDMENTS

In considering the subject of conduct in office, we believe emphasis should be placed on the following measures, in the order of priority here stated:

1. Establish and maintain clearly drawn laws and rules of procedure, understandable by the widest segment of the citizenry, so that incorrect application of the law becomes evident. Our recommendations for Charter and Code revisions relating to planning and zoning as contained in Chapters 1 and 2 of this report are intended to serve this purpose.

2. Obtain people of the highest quality of competence and integrity to serve on commissions and boards. We believe that the Mayor and City Council must assume full and equal responsibility for assuring such appointments through the selection and confirmation process. There is evidence that renewed attention is being given to this matter.

3. Establish uniform guidelines and standards for official conduct through a code of ethics and conflict of interest legislation. The suggestions in this Chapter are intended to assist in developing such standards.

In our first report of July 1968 we made four general recommendations about ethics, conflict of interest, private communications and campaign contributions, all in relation to planning and zoning matters (Recommendations 31, 32, 33 and 35). Although our study has been limited to planning and zoning matters, the City Council also referred to us for

report and recommendation certain files on the general subject of ethics, conflict of interest, and campaign contributions.⁸

Obviously any requirements for conduct in office should be equitably applied to public servants at all levels and functions within the City government. Accordingly, our suggested Charter and Code provisions are outlined in a form applicable to all City officials and employees, not just those connected with planning and zoning.

In formulating these suggestions we have also been guided by the following basic principles:

1. Charter and Code provisions must supplement State law. The Charter cannot supersede State regulations in this field.

2. Charter provisions should be limited to establishing basic concepts and requirements and providing the mandate and authority for further City legislation. Supplementary requirements and details should be left for adoption by ordinance.

3. The paramount consideration is that public actions are to be taken in the public interest. All the proposed regulations should be directed toward this goal.

4. The performance of routine or standardized duties which do not involve the exercise of substantial judgment should not

⁸Council File Nos: 132,460 Supplement 1; 132,683; and 132,683 Supplement 1.

be restricted by these regulations since external influences would not be a significant factor in such situations even though conflicting relationships might exist.

We propose that the existing Charter Sections 28 and 28.1 concerning conflict of interest be repealed and new provisions enacted. The present conflict of interest provisions are located in Article II of the Charter under the heading "Powers and Duties of the Council." Because such provisions also pertain to other officers, it is proposed that the new Charter provisions should be placed in Article IV—"Powers and Duties of Officers."

In the remainder of this Chapter, suggested Charter provisions and outlines of ordinances are presented together with explanatory comments. The suggested Charter text is indented and identified with the symbol # in the left margin. The complete text of the present and proposed Charter provisions is repeated in continuous form in Appendix B.

CODE OF ETHICS

We recommend that the City Council "undertake further study of this broad area including consideration of recent constructive developments elsewhere" and then "adopt a code of ethics for City officials and employees involved in planning and zoning matters." (Recommendation 31.) Fairness requires a code of ethics for planning and zoning matters to be established within the framework of a general code of ethics applicable to the entire City government. The following Charter provision is suggested to establish a mandate for both general and specific codes of ethics which will provide consistent guidelines for all officials and employees of the City.

CONDUCT IN OFFICE

Sec. 64.1. Ethics

The Council shall establish a Code of Ethics for all officers and employees of the City, whether elected or appointed, paid or unpaid. The purpose of this Code shall be to establish ethical standards of conduct for all

such officers and employees and to define those acts and actions that are incompatible with the best interests of the City. Such Code may be supplemented by codes of ethics adopted by the various departments, boards and agencies of the City, providing such supplementary codes are not inconsistent with the Council-adopted City-wide Code.

These first two sentences of suggested Charter Section 64.1 are adapted from the "Declaration of Policy" contained in A Suggested Code of Ethics for Municipal Officials and Employees (Chicago: International City Managers' Association, 1962). This publication is recommended to the Council as a guide in its further study of the subject.

To implement such a Charter provision, the City Council should review, revise, and supplement the Code of Ethics previously adopted by resolution. We also suggest that the Planning Commission periodically review its statement of "General Operating Policies and Practices," adopted October 19, 1967, and we urge the Board of Zoning Adjustment (to be renamed Board of Zoning Appeals under one of our recommendations) to adopt a similar policy statement.

CONFLICT OF INTEREST

The present Charter provisions relating to conflicts of interest are as follows:

Sec. 28. Members of the Council and other officers and employees of the City shall be prohibited from voting or acting upon any matter, contract, sale or transaction to which the City or the Council, or such other officers or employees may be a party, to the extent and in all instances as now or may hereafter be provided by applicable general laws of the State of California. The effect of any such matter, contract, sale or transaction made or handled in violation of this section and the penalty to be imposed on any member of the Council or other

officer or employee of the City acting in violation of this section shall be as now or hereafter provided by applicable general laws of the State of California.

Sec. 28.1. In the event the City Attorney is requested by any board, or member thereof, officer, except a member of the Council, or employee, to render an opinion upon the question of such board's, board member's, officer's or employee's prohibited interest under Section 28 of this Charter, the City Attorney shall render a written opinion upon such question. Such board, board member, officer or employee may likewise request an opinion from the City Attorney regarding any situation wherein it may not be in the public interest for such board, board member, officer or employee to act in a particular matter, contract, sale or transaction and the City Attorney shall render a written opinion thereon.

In the event that pursuant to such request the City Attorney determines, by written opinion, that such board or board member, officer or employee has a prohibited interest under Section 28 of this Charter, or that it is not in the public interest for such board, board member, officer or employee to act in the matter, contract, sale or transaction involved, the same shall be transferred for action thereon to the Board of Referred Powers, which is hereby created. Unless such transfer is prohibited by an applicable general law of the State of California, the Board of Referred Powers is vested with the same power to act upon any matter, contract, sale or transaction so transferred to it with the same force and effect as if acted upon by the board, officer or employee from whom the matter, contract, sale or transaction was transferred. The Council shall provide by ordinance for all matters relating to number of members, appointment and functioning of the

Board of Referred Powers and the procedure applicable in referring matters to it for its determination.

These existing provisions are deficient in several respects. Section 28 merely applies State law on the subject to Los Angeles. However, the present inadequacy of State conflict of interest legislation has been revealed in many ways. There is, of course, the possibility of further revision in State law, but such revisions may not prove adequate. The City should recognize its authority and accept its responsibility to supplement State law in this field.

Section 28.1 provides for the City Attorney to render opinions "regarding any situation wherein it may not be in the public interest" for an officer or employee to act in a matter. No definition whatsoever of the term "public interest" is provided to guide the City Attorney in carrying out this responsibility. Some stated guidelines should be directly available to the affected officials and should assist the City Attorney in further interpretations.

Finally, difficulties exist with the present provisions for the Board of Referred Powers. It seems unnecessary to require the transfer of a matter to this Board simply because one member of a commission is disqualified from acting. In these cases the remaining members of a commission should be permitted to act, providing some protection is established against their vote being influenced by the disqualified member. Also, in many cases a regularly designated appeal agency could assume jurisdiction more knowledgeably than the all-purpose Board of Referred Powers.

Another problem is that the rules for the appointment and functioning of the Board are left entirely to the Council. As now constituted, the Board consists entirely of Councilmen. The result is that it does not provide an independent advisory function and its actions tend to be a mere formality.

In view of these various deficiencies, we suggest the repeal of present Charter Sections

28 and 28.1 and the adoption of provisions along the following lines:

Sec. 64.2. Conflict of Interest

(1) Intent

No officer or employee of the City shall participate in or act upon or vote upon any matter in which there is or might reasonably appear to be a substantial conflict between his personal interest and the public interest.

These provisions are not intended to require officers to divest themselves of private interests that might create a conflict. The intention is only to have them avoid acting in those specific situations where they could be influenced by private considerations.

(2) Definition of Conflict

A conflict of interest exists when there is any circumstance which leads an officer or employee of the City, when involved in an official action by or in behalf of the City, to make a decision or to exercise discretion or judgment other than in the public interest. Circumstances which may create a conflict of interest include situations where an action by the City may affect particular groups, persons or property substantially differently from other groups, persons or property and an officer or employee involved in such action by or in behalf of the City has, directly or indirectly, a personal interest in the matter. A personal interest will be presumed to exist by reason of:

- (a) Current or prospective ownership of property involving substantial interest or control.
- (b) Current or prospective financial transactions.
- (c) Current or prospective employment.

(d) Participation in an organization in a position of leadership or control or involving an obligation to the organization.

(e) Personal relationships through friendship, family or other relationship which involve a compelling obligation to anyone having an interest as described in Subsections (a), (b), (c) and (d) above.

(f) Any similar influence.

This suggested provision would provide a framework for determining when a conflict of interest exists. It should be noted, however, that this is merely an enumeration of the subject matter to be considered. It would be left for the City Council to determine by ordinance the types and degree of ownership, the kinds of financial transactions, the specific organizational and personal relationships, and other factors which would be presumed to constitute an actual conflict.

Note that under Subsection (d), membership in an organization would be a factor only if one is in a position of leadership, control or obligation with respect to it. Under Subsection (e), personal relationships would be a factor only if there is a "compelling obligation."

In the final analysis, it is a matter of individual conscience to determine whether or not a true conflict of interest is present. But the enumeration of the factors involved should at least be an aid in such self-examination.

(3) Disclosure and Disqualification

- (a) An officer or employee who has a conflict of interest shall publicly disclose the general nature of the conflict prior to participating in or acting upon the matter involved on behalf of the

City. If, after having participated in a matter but prior to final City action upon the matter, an officer or employee discovers that a conflict of interest exists, he shall immediately disclose that fact.

This suggested Subsection implements our Recommendation 32. We believe that individual privacy will be best protected by requiring a limited disclosure only when a specific conflict occurs rather than a regular and more comprehensive disclosure of one's total assets, real estate holdings, income, etc., as has been suggested by others.

- # (b) Any officer or employee, upon disclosure that a conflict of interest exists, may disqualify himself from further participation in or action upon the matter involved. Any officer or employee, other than the Mayor, Members of the Council and Members of the Board of Referred Powers, who has a substantial conflict of interest, as such term is defined in any ordinance adopted pursuant to this Section, shall disqualify himself from further participation in or action upon the matter.

It is proposed that the Mayor and Council be exempted from forced disqualification (but not from the disclosure requirement) since their legislative responsibilities cannot be transferred to others. Also, failure of the Mayor to act on an ordinance is equivalent to approval, while abstention by a Councilman would be equivalent to a vote against an ordinance. Therefore disqualification of these officers is not necessarily impartial. The Board of Referred Powers is exempted because it is an agency of last resort—there is nowhere else to go if this board should be unable to act because of disqualification.

Note that a distinction is made here between substantial and minor conflict—with the definition to be spelled out by ordinance—and only the former would require disqualification.

- # (c) When an officer or employee has a conflict of interest but does not disqualify himself, then a complete public disclosure of his personal interest in the matter shall be made at the time of initial disclosure.
- (d) An officer or employee who has a substantial conflict of interest shall not communicate in any way with other officers or employees of the City concerning such matter except for statements of disclosure and disqualification as required under this Section.

This non-communication provision is intended to protect, for example, a commission from being influenced by a member who has a conflict of interest. This will remove the need for the present requirement for transfer of a matter to the Board of Referred Powers even when only one member of a commission has a conflict.

(4) Implementing Regulations

The Council, by ordinance, may provide specific regulations refining the definition of substantial conflict of interest, requirements and procedures for disclosure and disqualification, and such other implementing regulations as are consistent with the provisions of this Section.

The following is a suggested outline of the subjects to be covered in the ordinance which should be adopted to implement suggested Charter Section 64.2:

CONFLICT OF INTEREST

Purpose

Definitions

Conflict of Interest

Substantial

Minor

Interests

Ownership

Financial

Employment

Organizational

Personal

Relationship

Direct

Indirect

Family

Friendship

Regulations

Matters affected

Contracts

Sales

Purchases

Other transactions

Regulatory measures

Policy actions

Persons affected

Officers

Employees

General disclosure—when required

Disqualification—when required

Detailed disclosure—when required

Communications

Scope

When prohibited

Procedures—steps, when, by, whom,
forms, etc.

General disclosure

Detailed disclosure

Disqualification

Transfer of jurisdiction

To appellate agency

To Board of Referred Powers

Earlier in this chapter, we pointed out some present problems with the Board of Referred Powers as now constituted. We propose a new Charter provision for this Board as follows:

Sec. 64.3. Board of Referred Powers

There is hereby created the Board of Referred Powers which shall consist of five members, none of whom holds any other position as an officer or employee of the City. Said Board shall exercise the powers and perform the duties provided for in this Charter. The Council shall provide by ordinance for the appointment and functioning of the Board of Referred Powers.

Essentially, this Charter proposal would continue the present provisions for the Board but with an important restriction added so that none of the members of the Board may hold other City positions. Accordingly, the Board members would not be otherwise involved in City actions, and consequently would be in a position to render independent decisions or recommendations in the same manner as the citizen commissions for which the Board would act as a substitute when necessary.

Sec. 64.4. Transfer of Jurisdiction

In the event that disqualifications made under Section 64.2 of this Charter shall render any agency of the City, other than the Mayor or City Council, unable to act upon a matter as required by law, then the matter shall be transferred for action to the appellate agency for the type of matter involved. If there is no appellate agency, then the matter shall be transferred to the Board of Referred Powers. The appellate agency or the Board of Referred Powers, as the case may be, is hereby vested with the power to act upon any matter transferred to it in accordance with this Section with the same force and effect as if acted upon by the agency from which the matter was transferred, and is subject

to the rules governing the agency
having original jurisdiction.

Under this suggested provision, the Board of Referred Powers would come into play only as a last resort. When an appeal agency exists which normally handles a given type of matter, it is best qualified to serve as a substitute for the agency normally possessing original jurisdiction.

CAMPAIGN CONTRIBUTIONS

State law provides certain requirements about campaign contributions to candidates for local office. However, we believe they are inadequate, particularly since complete and itemized reports are not required. More comprehensive reporting of campaign contributions is recognized by many people in various phases of political activity and government as being a key requirement for insuring that campaign financing is an honest, open, and responsible activity. Therefore, we propose the adoption of supplementary regulations in the Charter and Municipal Code (Recommendation 35).

Sec. 64.5. Contributions, Gifts and Gratuities

(1) The Council, by ordinance, shall regulate and may prohibit the offering to and the receipt by or in behalf of any candidate for office, officer or employee of the City any contribution, gift or gratuity, in whatever form, which would tend to create a conflict of interest.

(2) All candidates for office, officers and employees of the City shall be required to submit itemized reports of contributions, gifts and gratuities, listing donors and amounts received from each donor. Such reporting shall include indirect contributions handled through campaign committees, campaign management firms or other individuals and organizations.

The following is a suggested outline of the Code provisions which might be adopted pursuant to the above proposed Charter requirement:

CONTRIBUTIONS, GIFTS AND GRATUITIES

Purpose

Definitions

Regulations

Affected parties

Elected officials

Candidates for elective office

Appointed officers and employees

Individuals, firms or other organizations receiving or disbursing funds or services on behalf of candidates, officers or employees.

Reports required—source of funds and services and amount from each source.

Procedures—steps, when, by whom, to whom, forms, etc.

Individuals, firms and organizations must make reports to beneficiaries.

Beneficiaries must file complete report with City Clerk

City Clerk to retain for five years

Information to be available to public

PRIVATE COMMUNICATIONS

In California, the Ralph M. Brown Act prohibits members of public bodies from reaching joint decisions in secret. We believe protection of local public officials from private pressure and arguments hidden from public view should be expanded (Recommendation 33).

Sec. 64.6. Private Communications

The Council, by ordinance, shall regulate and may prohibit private communications between interested parties and officers or employees of the City concerning official matters which are or may be under consideration by such officers or employees.

This suggested Charter provision is merely a general mandate and enabling provision. We propose the establishment by ordinance of specific regulations along the lines of the following outline:

PRIVATE COMMUNICATIONS

Purpose

Definitions

Affected parties

Commissioners and Board members.

Persons communicating with Commissioners and Board members.

Regulations

No oral or written communication regarding any matter pending before a board or commission except statements presented in open public meeting or written communications addressed to the board or commission as a whole.

If prohibited communication occurs:

Disclosure by officer involved.

Disqualification or vote against interest of party initiating prohibited communication.

We do not believe it is feasible to include the Mayor and Councilmen within a prohibition against private communications. The remedy for abuses by elected officials is at the ballot box. But for advisory and quasi-judicial bodies which are appointed for the purpose of making fair and impartial decisions or recommendations to elected officials, we believe that all of the information upon which such actions are based should be equally available to all members of such bodies and to the general public.

ENFORCEMENT

To clarify the procedures and penalties applicable to violations of local requirements for conduct in office, it is suggested that a section on this subject be included in the Charter.

Sec. 64.7. Misconduct in Office

(1) Violations

Any officer or employee of the City who in the performance of his powers and duties violates the requirements of Sections 64.1 through 64.6 of this

Charter or any ordinances adopted pursuant thereto shall be guilty of misconduct in office.

(2) Discipline

(a) Officers and employees subject to the civil service provisions of this Charter shall be subject to discipline and penalties for misconduct in office only under said civil service provisions.

(b) Appointed officers and employees not subject to the civil service provisions of this Charter and found guilty of misconduct in office shall be subject to suspension or removal by the appointing authority.

(c) Officers subject to the provisions of State law concerning misconduct in office shall also be subject to discipline and penalties in accordance with said provisions.

Several problems about discipline and penalties may need to be considered further. Is an officer who is under civil service placed in double jeopardy since he might be charged both under civil service procedures and by a Grand Jury accusation under State law? In the case of an employee not under civil service, should a specific procedure be provided to determine guilt?

Ordinance provisions on misconduct in office should include the following subjects:

ENFORCEMENT

Enforcing agencies designated

Department managers and Civil Service Commission for civil service employees.

Appointing authorities for noncivil service officers and employees.

Grand Jury accusation under State law for elected officers and as alternative course of action for other officers.

Provision for advisory opinions and interpretations by City Attorney.

Disciplinary action

Procedures for bringing charges and determining guilt

Civil service employees

Noncivil service officers and employees

Penalties

Suspension

Discharge or removal

Fine

Penal action

Jeopardy under other provisions of State law and Municipal Code.

Enumeration of provisions of this

ordinance subject to misdemeanor or felony prosecution.

Civil action

Damages

Validity of City actions even though misconduct may be discovered.

OFFICERS OF THE CITY

To identify clearly the members of the Board of Zoning Appeals and the Board of Referred Powers as officers of the City, these titles should be added to Charter Section 5 which lists the officers of the City. The title "Board of Zoning Appeals" is used instead of "Board of Zoning Adjustment" on the assumption that another Charter amendment will accomplish this title change in present Sections 97, 98, 98½ and 99.

CHAPTER 4

CHARTER AMENDMENT CONCERNING TERMS OF OFFICE ON COMMISSIONS AND BOARDS

One of our recommendations is the amendment of the Charter "to strengthen the system of overlapping terms of service on the City Planning Commission and the Board of Zoning Appeals." (Recommendation 27.) It seems clear that the present Charter intent is for Commissioners and Board members to serve regular five-year overlapping terms of office. However, the present provisions allow an appointee to be removed from office at any time simply by the appointment and confirmation of a replacement. This constant possibility of removal conceivably could be used as a means of unduly influencing the actions of appointees. Sudden changes in the majority of the members on a board also could be accomplished, possibly resulting in a lack of continuity and consistency in the actions of such board. We believe it is essential to protect the independent advisory role of the Planning Commission and a consistent quasi-judicial role for the Board of Zoning Appeals.

The specific ways in which an incumbent board member can be removed under the present provisions are:

1. The Mayor may simply make a new appointment to an office, even though there is an incumbent. The City Attorney has ruled that in such cases, confirmation of the new appointee automatically confirms the removal of the incumbent. However, in such cases, attention tends to be focused entirely upon the qualifications of the new appointee rather than upon the reasons for removal of the incumbent.

2. Upon expiration of a term, the Mayor may fail to make either a reappointment or a new appointment. In this circumstance, the incumbent continues in office but is subject to replacement at any time by a new appointee.

3. Possibly, an undated resignation could be secured as a condition of appointment and then held for use at any time.

Last year, after considering this tenure problem with respect to all City commissions, the Council approved a proposed Charter amendment for the April 1, 1969 municipal election, to apply to all City commissioners and the members of the Board of Zoning Adjustment. This amendment was approved by the voters. It requires the Mayor to make an appointment within 45 days of either the expiration of a term or the occurrence of a vacancy. If the Mayor does not act within the 45 days, the power to appoint shifts to the President of the Council, and if he in turn fails to act within an additional 45 days the Council as a whole can make an appointment. Also, if the Council fails to disapprove an appointment within 45 days after submission, the appointment is deemed confirmed. These provisions will tend to insure that appointments are made at the beginning of each term of office and extended vacancies and holdovers do not occur.

We support this Charter amendment in the belief it will bring about a significant improvement in the existing situation. However, we recognize it does not carry out our

recommendation in the following respects:

1. The Mayor still could remove a commissioner simply by obtaining the confirmation of a new appointee. We proposed a requirement that in such cases removal must precede a new appointment. By requiring a separate removal action, arbitrary removals would be unlikely, and an appointee could expect to serve his full term unless a valid and publicly stated reason is presented.

2. Removal still could be initiated only by the Mayor. We suggested the City Council be empowered to initiate removal by a two-thirds vote, and if the Mayor opposes such

action, a four-fifths vote be required to sustain it.

3. The possibility remains for obtaining a prior, undated resignation as a condition of appointment. This could be prevented if the Charter provided that a resignation is valid only when publicly filed with the City Clerk by the office-holder.

4. We suggested 60-day periods, rather than 45-day periods, be allowed for the making of appointments and for Council disapproval of appointments. We see no objection to the 45-day rule.

CHAPTER 5

ADMINISTRATIVE AND POLICY ACTIONS

A number of our recommendations do not require changes in the City Charter or the Municipal Code and, therefore, can be accomplished by administrative order or policy resolution. In addition, some of the proposed Charter and Code changes will require significant policy and administrative action to properly implement the new legislation. These various action requirements are summarized in this Chapter.

Area-by-Area Schedule for General Plan (Recommendation 3)

Our proposed Charter and Code provisions call for the adoption and amendment of the General Plan on an area-by-area basis. The Planning Department has scheduled a number of area or community General Plan studies as part of its work program. However, in order to carry out the proposed Charter requirement, it will be necessary for the Department to give continuing attention to the definition of areas and the scheduling for study of all areas of the City.

Zoning Code Revision (Recommendation 5)

We recommend that a complete revision of the Zoning Code be undertaken. Funds are provided for this work in the current City budget, and the Planning Department staff and consultants are getting the project underway. This work will require at least two years. We urge that budgetary support for this project be continued at an adequate level.

Area-by-Area Schedule for Zoning Map Revisions (Recommendation 6)

We are proposing Charter and Code provisions to require an orderly area-by-area process of considering changes in the Zoning Map in place of the present case-by-case procedure. The definition and scheduling of areas under this new procedure will require considerable study and analysis by the Planning Department and should be coordinated with the area-by-area General Plan program. Other factors to be considered include the rate of development and the relative inadequacy of existing zoning patterns in various parts of the City.

Conditional Uses (Recommendation 7)

One of our major proposals is the establishment by Code of suitable regulations and criteria to guide the Office of Zoning Administration in acting upon conditional use permits. It has been suggested by others that it is not possible to determine such regulations in the near future and therefore conditional uses must continue to be handled without definite guidelines. This course of action is bound to produce inequities and inconsistency in the application of zoning law. We firmly believe it is possible to establish workable guidelines if adequate attention is given to this matter. Therefore, we propose intensive study be initiated by the Planning Department to define the significant characteristics of each type

of land use subject to the conditional use procedure and the principles, criteria, and standards which should be applied in acting upon each such use. Priorities should be determined for the uses to be studied and staff should be assigned to begin this vital project for improving the Zoning Code. This type of study should be a continuing function of the Planning Department if the Zoning Code is to be kept up-to-date with respect to new types of land use and the changing characteristics of existing land uses.

**"Q"—Qualified Zone
(Recommendation 10)**

The Planning Commission and City Council are currently considering an ordinance to create a new and relatively unrestricted form of conditional use approval. Under this proposal a "Q" zone designation could be adopted legislatively in combination with any zone change. The ordinance which applies the "Q" designation to an applicant's property would also specify one or more particular uses, in addition to those uses permitted under the previous zoning, to which the property could be put if it complies with specific conditions included in the same ordinance.

We strongly oppose the "Q" zone concept because it includes no rules or criteria established in advance, thus creating unlimited possibilities for inconsistent and discriminatory action. We, therefore, urge that the "Q" zone proposal be filed.

In order to meet the problems which gave rise to the "Q" zone proposal, we suggest the conditional use approach be applied in accordance with our Recommendation 7. The particular types of uses and circumstances for which the "Q" zone was envisioned should be identified, placed in priority order and studied for the purpose of establishing adequate criteria as proposed in this Chapter under the subject of conditional uses.

**Zoning Enforcement
(Recommendation 11)**

We recommend that the Building and Safety Department provide adequate staff for regular inspections and follow-up on compli-

ance with zoning regulations, particularly the special requirements of conditional use and variance approvals. We urge the Building and Safety Department to evaluate its effectiveness in this regard and to make known any requirements for fully carrying out our recommendation.

**Notification of Hearings
(Recommendation 17)**

We offered several suggestions for improvements in giving notice to the public about zoning proceedings. To implement these suggestions the Planning Department should:

1. Improve the format and wording of hearing notices.
2. Resume the practice of having City personnel prepare property ownership lists for mailing of notices, rather than relying upon the submission of such lists by applicants.
3. Adopt a definite policy of notifying owners of nearby property in those instances where a matter is under consideration but no formal hearing is to be held.

In addition, we propose that data processing systems be improved as rapidly as possible to insure that accurate, up-to-date mailing addresses are used and to permit tenants in an area, as well as owners, to be notified. Studies of these data processing requirements should be pressed forward.

**Subscription Service
(Recommendation 18)**

To provide an orderly system for furnishing notification to interested individuals and organizations which might not otherwise receive notifications, we propose the Planning Department establish a subscription service. The Department should proceed with the task of setting up such a service:

**Commission and Board Appointments
(Recommendation 24)**

We consider it essential that people of the highest integrity, competence and civic interest be appointed to the Planning Commission and Board of Zoning Appeals. This requires the Mayor and City Council to give

continuing critical attention to their responsibilities in the selection and confirmation of appointees.

Orientation of Commission and Board Members

(Recommendation 25)

We recommend that new appointees to the City Planning Commission and the Board of Zoning Appeals be furnished a written manual covering the nature of the planning and zoning functions, the role of the Commission and Board, and the legal, policy and ethical limitations within which they operate. The Planning Department should proceed to prepare and assemble this information in a convenient form.

Policy Reviews
(Recommendation 26)

It is our understanding that the Planning Commission, Board of Zoning Adjustment and Planning Department staff occasionally conduct meetings to review overall operations and basic policies and procedures. We commend this practice and urge its continuance and strengthening on a regularly scheduled basis.

One important part of such discussions should be periodic explanations by the City Attorney of significant court decisions. In addition, information on new techniques in planning and zoning should be presented. Finally, an exchange of attitudes and ideas should take place among the agencies responsible for planning and zoning in Los Angeles. This exchange should be directed toward definition of their respective roles and effective coordination of the City's planning and zoning processes.

Public Information
(Recommendation 30)

We recommend strengthening of the City's public information efforts with respect to planning and zoning, including:

1. Making available simple, clear explanations of objectives, policies, plans, regulations and procedures.

2. Placing capable personnel in public contact positions.

3. Maintaining adequate records and staff at branch offices.

4. Providing simple and clear written explanations of public hearing procedures.

Implementation of this recommendation will require continuing efforts by the Planning Department together with appropriate budgetary support. We commend the Planning Committee of the City Council for promptly acting upon item 4 above by preparing an explanation of its hearing procedure.

Field Inspections by the Board of Zoning Appeals
(Recommendation 34)

Our Recommendation 22 and proposed Charter Section 99(3) provide for the Board to consider an appeal only upon the previously established record of the case. In keeping with this requirement, we recommend that field inspections not be undertaken by individual members of the Board but only by the Board as a whole. This procedure will insure that all members of the Board receive the same field information.

We urge the Board to adopt a rule governing field inspections in accordance with this recommendation.

Grand Juries
(Recommendation 36)

To provide a more adequate check on municipal planning and zoning affairs, we recommend that the State Legislature expand the powers of grand juries to permit investigation of municipal planning and zoning matters on their own initiative. We also support the recommendation for an additional grand jury in Los Angeles County.

To bring this matter to the attention of the State Legislature, we urge the Mayor and City Council to place this item in the City's State Legislative Program.

APPENDIX A
PROPOSED CHARTER AMENDMENT
RE: CITY PLANNING

Note: The text which follows constitutes the complete wording of Article VIII as proposed by the Citizens Committee, with the additions and deletions from the existing provisions indicated. Additions are in boldface type and deletions are shown by ~~strikeout~~ type.

ARTICLE VIII
~~DEPARTMENT OF CITY PLANNING~~

Sec. 94. Department of City Planning

The Department of City Planning shall have and exercise all the powers and duties which are ~~now or may hereafter be provided in this Charter, and, in addition thereto, such other powers, including those granted to or imposed upon City Planning Commissions or Departments by State law, and, in addition thereto, such powers as are provided approved by ordinance, subject, however, to the provisions of Article VIII of this Charter.~~

~~Sec. 94 1/2.~~

Sec. 95. Director of Planning

(1) The general manager of the Department of City Planning shall be known as the Director of Planning. ~~The Director of Planning.~~ He shall be chosen on the basis of his administrative and technical qualifications, with special reference to his actual experience in and his knowledge of accepted practice in the field of city planning.

~~Sec. 95.~~

(2) The Director of Planning shall have the following powers and duties, subject to ~~supervision and direction~~ advice by the City Planning Commission as to matters of policy:

- (a) With the advice of the ~~Coordinating~~ General Plan Advisory Board, he shall prepare ~~a master plan the General Plan for the physical development of the City, as such term is defined by State law, in so far as such definition is applicable to the City,~~ and from time to time extend and modify the same; and he shall prepare all maps, diagrams, charts and reports which may be necessary or advisable in the making of said ~~master plan~~ General Plan.
- (b) Subject to the approval of the City Planning Commission, he shall prepare all proposed zoning regulations and requirements, ~~establishing~~ including the necessary districts or zones in connection therewith, and he shall prepare all maps, charts and diagrams which may be necessary or advisable in the making of such zoning regulations.
- (c) He shall make investigations and report on the design and improvement of all proposed subdivisions of land and shall have such powers and perform such duties as are required by

the Subdivision Map Act of the State of California.

- (d) ~~In addition to the foregoing,~~ He shall have such additional powers and duties as may be imposed upon him by ordinance.

~~Sec. 95 1/2~~

Sec. 95.5. General Plan Advisory Board

There is hereby created a Master-General Plan Advisory Board which shall be composed of the Director of Planning, the Mayor, a member of the Council designated by the President of the Council, the City Administrative Officer, the City Engineer, the Executive Director of the Housing Authority, the Executive Director of the Community Redevelopment Agency, and the general managers of each of the following departments; namely, Building and Safety, Fire, Police (or the bureaus thereof), Public Utilities and Transportation, Recreation and Parks, Traffic, Airports, Harbor, and Water and Power (or the bureaus thereof), together with ~~such other~~ not to exceed three additional officers of the City or heads of City agencies as the Mayor may designate from time to time designate.

Each member of the Board, except as hereinafter provided, may designate a representative to act as an alternate for such member provided that the representative so designated occupies a position of the highest managerial level in the office, or department or agency below that of the member making such designation. The Mayor may designate a representative to act as his alternate provided the representative so designated is a person occupying an executive position in the Office of Mayor. In the case of the member of the Council designated by the President of the Council, the designation of a representative to act as an alternate for such member shall be made by the President of the Council. In the case of officers of the City designated by the Mayor, the designation of the alternate shall be made by the Mayor. Only a member of the Council may be designated as an alternate by the President of the Council and only an officer of the City may be designated as

an alternate for those officers of the City designated by the Mayor to serve on said Board.

The Director of Planning shall be Chairman of said Board and shall be responsible for giving notice of its meetings and keeping the records thereof. Said Board shall meet at the call of either the Chairman, the Mayor, or the City Administrative Officer. When a meeting of the Board is called by the Mayor or the City Administrative Officer, such officer shall forthwith notify the Chairman of such call and ~~he~~ the Chairman shall give notice of the meeting to be held pursuant to said call. Two-thirds of the members of the Board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time until a quorum be present.

The function and duty of the Board shall be to advise with and assist the Director of Planning in the preparation of the master-plan-General Plan and of amendments or changes thereof thereto; and, for such purpose, the work of the Board may from time to time be assigned to committees thereof, appointed by the Chairman, for report and recommendation thereon to the Board. The Chairman, the Board and the committees thereof shall have the authority to obtain information and advice from any available source deemed suitable.

Sec. 96. City Planning Commission

The Board of City Planning Commissioners shall be known as the "City Planning Commission." It shall serve in an advisory capacity to the Mayor and Council on all matters related to the city planning function which involve legislation or determination of policy. It shall also serve in an advisory capacity to the Director of Planning on matters of policy pertaining to the development, adoption and amendment of the General Plan and specific plans, including the zoning ordinance. It may review the findings and recommendations of the Director of Planning on these and other matters related to the city planning function and submit its own findings and recommendations thereon.

~~Sec. 96.4. The City Planning Commission shall advise the Director of Planning in the preparation of the master plan, including the preparation of zoning, land subdivision and building line regulations, and other regulatory measures related to the master plan or the physical development of the City, and shall hold all public hearings which may be required by law for the adoption, extension or modification thereof. Upon adoption by the City Planning Commission of said master plan or any part thereof, or any regulatory measure referred to above, the same shall be presented to the City Council by the Director of Planning, with the recommendations of the City Planning Commission. Upon receipt of the master plan, or any part thereof, or any such regulatory measure so adopted by the City Planning Commission, the City Council shall consider the same and may adopt such plan, or any part thereof, or any such regulatory measure as it may deem advisable.~~

Sec. 96.5. General Plan

The General Plan shall be a comprehensive declaration of purposes, policies and programs for the development of the City, and shall include, where applicable, diagrams, maps and text setting forth objectives, principles, standards and other features.

(1) Purpose. The General Plan shall serve as a basic and continuous reference in (a) planning for the development of the City, (b) developing, correlating and coordinating official regulations, controls, programs and services, and (c) attaining coordination of planning and administration by all agencies of the City government, other governmental bodies and private organizations and individuals involved in the development of the City.

(2) Content. The General Plan shall include the following elements:

(a) A land use element which designates the proposed general distribution, location and extent of the uses of land, and includes a statement of the standards of population density and building intensity for the various areas covered by the General Plan.

(b) A circulation element indicating the general location and characteristics of existing and proposed freeways, major thoroughfares, transportation routes, terminals, and other facilities and features all correlated with the land use element of the General Plan.

(c) A service-systems element indicating the general location and characteristics of service-systems supplying the City with utilities and services.

The General Plan may include other elements including those enumerated by State Law when approved by the Planning Commission and the Council.

(3) Procedure. The Director of Planning, with the advice of the Planning Commission and the General Plan Advisory Board, shall prepare in the manner prescribed by this Charter and by ordinance, and the Planning Commission shall approve and the Council shall adopt by resolution, a comprehensive General Plan for the development of the City and of any land outside the boundaries of the City which bears relation to its planning.

Proceedings pertaining to preparation, consideration, hearings, time limits, approval and adoption of the General Plan, or any of its parts or amendments thereto, shall be as provided by ordinance, subject to the following limitations:

(a) The General Plan shall be so prepared that the Planning Commission may approve and the Council may adopt it only as follows: as a whole; by complete subject elements; by substantial geographical areas; or by substantial portions of subject elements; provided that any such area or portion has significant social, economic or physical identity.

(b) After public hearing by the Planning Commission, and upon its approval of said General Plan or any part thereof or amendment thereto, the same shall be presented to the Mayor and the Council by the Director of Planning.

(c) After receipt of the General Plan or any part thereof or amendment thereto as approved by the Planning Commission; and upon receipt of the recommendations by the Mayor relative thereto, or the expiration of 30 days, whichever first occurs, the Council shall conduct a public hearing before acting thereon, and thereafter may adopt such Plan, or part thereof or amendments thereto provided the consideration of any such part or amendment conforms to the limitations set forth in Subsection (3) (a) hereof.

(d) If the Council proposes any change from that which is approved by the Planning Commission, such proposed change must be referred to the Director of Planning, the Planning Commission and the Mayor for recommendation. The Planning Commission and the Mayor must act thereon within a period determined by ordinance, or such longer period as the Council may designate. Failure to act within such time shall be deemed to be an approval.

(e) Upon conclusion of its public hearing if no changes are proposed by the Council, or after receipt of the Mayor's and Planning Commission's recommendations on any proposed change, or the expiration of their time to act thereon, final action by the Council shall be taken within a period determined by ordinance.

(f) Adoption of the General Plan or any part thereof or amendment thereto shall be by majority vote of the entire Council if not contrary to the recommendations of either the Planning Commission or the Mayor. A two-thirds vote shall be required if contrary to the recommendations of either the Planning Commission or the Mayor, and a three-fourths vote shall be required if action of the

Council is contrary to the recommendations of both the Planning Commission and the Mayor.

(4) Implementation. The City-Planning Commission shall make such reports and recommendations to the City Council and to other governmental officers or agencies as may be necessary to secure adherence to and systematic ~~execution~~ implementation of the ~~master-plan~~ General Plan, and may publish and distribute reports relating to the ~~master-plan~~ thereto. A copy of all adopted portions of the General Plan shall be available for inspection in the main and each branch office of the Department of City Planning.

(5) Compliance. When acting upon a specific plan or any other matter enumerated in Sections 97.1 through 97.7 of this Charter, the Planning Commission and the Council shall make specific findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan. If the Council does not adopt the Planning Commission's findings and recommendations, the Council shall then adopt its own specific findings.

Sec. 96.6. General Plan and Zoning Areas

For the purpose of reviewing or amending the General Plan and the zoning map, the Planning Commission shall recommend to the Council and the Council shall adopt an ordinance providing for the division of the entire City into areas and providing a schedule for the consideration of such areas. The schedule shall be adhered to unless the Planning Commission determines there are special circumstances affecting the public interest as such may be defined by ordinance which necessitate a deviation therefrom. Any proposal or application for the adoption of or amendment to either the General Plan or the zoning map shall be considered only during the period scheduled for the area involved except that matters involving City-wide application need not be considered on an area by area basis.

Sec. 97.1. Specific Plans

A specific plan is a precise statement of policies, standards and regulations together

with a map or description defining the exact locations where such policies, standards and regulations are applicable.

(1) Purpose. The purpose of a specific plan shall be to provide, by ordinance, regulatory controls for the systematic execution of the General Plan and to provide for public needs, convenience and general welfare.

(2) Content. Such specific plans may include:

(a) Zoning: Regulation of the use of land and buildings, the height and bulk of buildings, and the open spaces about buildings.

(b) Public Projects: Regulations limiting the location of buildings and other improvements in relation to existing or planned rights-of-way or other types of public projects.

(c) Such other measures as may be required to insure the execution of the General Plan.

(3) Procedure. The Council may, by ordinance, provide regulations consistent with the provisions of this Charter, for the preparation, consideration, hearings, time limits, approval and adoption of specific plans and amendments thereto.

Sec. 97.2. Specific Plans—Zoning

(1) ~~(2)~~ No ordinance, order or resolution shall be adopted by the Council involving (i) the creation or change of any zones or districts for the purpose of regulating the use of land, density of population, the height, bulk, location or use of buildings or structures therein, or the size of yards, open spaces or setbacks adjacent to buildings or structures, or (ii) the authorization of location and regulation of uses of land which may be designated in the zoning ordinance as unclassifiable according to zones or districts, or (iii) the establishment, change or repeal of regulations applying within any of said zones, districts, yards, open spaces, or setbacks, unless ~~and~~ until it shall have first been submitted to the City Planning Commission for report and recommendation concerning the following:

(a) Its relation to and effect upon ~~any portion of the master plan of the City General Plan, specific plans and~~ or any plans being prepared by the Department of City Planning, and

(b) Whether its adoption will be in conformity with public necessity, convenience, general welfare and good zoning practice.

(2) Proceedings for the creation or change of any of said zones or districts, or the authorization of an unclassifiable use, or the establishment, change or repeal of any regulations applying therein thereto, may be initiated by the filing of an application with the City Planning Commission as provided for by ordinance, or by the Council or the City Planning Commission.

~~When a proceeding involving any of the matters mentioned in subsection (2) hereof is initiated by the Council, it shall be the duty of the City Planning Commission to make and file its report and recommendations thereon with the Council within fifty (50) days of receiving same or within such additional time as the Council may specify. Should the Commission recommend approval of the matter involved, in whole or in part, or fail to make any recommendations within the time limit specified herein, an ordinance, order or resolution in conformity therewith shall be prepared and presented to the Council, which may adopt same by majority vote of the whole Council. Should the Commission recommend against the approval thereof, the Council may adopt an ordinance, order or resolution effectuating same only upon a two-thirds vote of the whole of the Council.~~

~~When an application involving any of the proceedings mentioned in subsection (2) hereof is filed with the City Planning Commission, it shall be the duty of the Commission to act thereon within fifty (50) days of the date of such filing. This period may be extended for an additional period of not to exceed twenty-one (21) days by mutual consent of the applicant and the Commission. The Council may, by ordinance, prescribe time limits, conditions and procedures under which the Commission may withhold action~~

~~on any application for change of zone beyond the periods hereinabove specified when the application pertains to land located within an area in which the Commission is conducting a general survey or study. Should~~

(3) If the Commission recommends approval of the matter involved, in whole or in part, of any matter mentioned in Subsection (1) hereof, or fails to make any recommendations within the above-specified period time limits prescribed by ordinance, an ordinance, order or resolution in conformity therewith with the action of the Commission, or in conformity with the request to the Commission if the Commission has failed to act, shall be prepared and presented to the Council which may adopt same by majority vote of the whole Council. ~~Should~~ If the Commission recommends against the approval thereof of any matter mentioned in Subsection (1) hereof, in whole or in part, its action thereon shall be final except that an appeal may be taken to the Council within the time and in the manner prescribed by ordinance. Upon such appeal, the Council shall review the action of the Commission and may adopt an ordinance, order or resolution effectuating ~~some~~ granting such appeal, in whole or in part, only upon a two-thirds vote of the whole of the Council.

Sec. 97.3. Specific Plans—Building Lines

(1) No ordinance, order or resolution shall be adopted by the Council regulating the setback of buildings or other improvements adjacent to a street or highway unless it shall have first been submitted to the Planning Commission for report and recommendation concerning: its relation to and effect upon the General Plan, the applicable zoning regulations and any other specific plans, and any plans being prepared by the Department of City Planning; and its conformity with public necessity, convenience and general welfare.

(2) Proceedings for the establishment, change or repeal of any such building line regulations shall be subject to the same limitations set forth in Subsections (2) and (3) of Section 97.2 of this Charter.

Sec. 97.4. Specific Plans—Public Projects

(1) Purpose. Specific plans for public

projects may be adopted in order to establish regulations and protection against intrusions into land area required for physical public improvements such as streets, parks, public buildings or other functional public features.

(2) Content. A specific plan for a public project shall include a map, with or without descriptive text, showing the exact location, required land area, and dimensions of a proposed public project, and may include regulations limiting the location of buildings or other improvements both within and adjacent to the land area required for the project.

(3) Procedure. When a public project needs specific and controlling identification and protection, the Director of Planning with the assistance of the City Engineer or the technical head of any other department whose duties are reasonably related to such project shall prepare, in the manner prescribed by this Charter and by ordinance, a specific plan. Upon report and recommendation by the Planning Commission, such plan shall be transmitted to the Council. Adoption of any such plan shall be by ordinance.

The Council may, by ordinance, provide further regulations pertaining to the proceedings for the preparation, consideration, hearings, time limits, approval and adoption of such specific plans, or amendments thereto.

Sec. 97.6. Referrals—Public Uses.

(1) No ordinance, order or resolution shall be adopted by the Council authorizing, ordering or involving any of the following enumerated matters, unless ~~and until~~ such ordinance, order or resolution shall have first been submitted to the ~~City~~ Planning Commission for report and recommendation concerning the relation of the matter involved to and its effect upon ~~any portion of the master plan of the City~~ General Plan, any applicable specific plans and ~~or any plans being prepared by said department~~ the Department of City Planning:

(a) The acquisition, establishing, opening, widening, narrowing, straightening, abandoning or vacating of any public street, road, highway, alley, square, park, playground, airport,

public building site, or other public way, ground or open space, but not including easements for local sanitary sewers, storm drains or slopes.

- (b) The location, appearance, and width of any bridge, viaduct, subway, tunnel or elevated roadway for the use of pedestrian or vehicular traffic, or the location and appearance of any public building.

~~(2) It shall be the duty of the City Planning Commission within fifty (50) days from~~ Upon the receipt of any such proposed ordinance, order or resolution, it shall be the duty of the Planning Commission to make and file its report and recommendation thereon with the Council within a time limit prescribed by ordinance, ~~and should said Commission recommend against the approval thereof, the Council may adopt same only upon a two-thirds vote of the whole of said Council.~~ Should the City Planning Commission recommends approval or fails to make any recommendation within the prescribed time mentioned herein limit, the said Council may adopt such ordinance, order or resolution by a majority vote of the whole Council. If the Commission recommends against the approval thereof, the Council may adopt same only upon a two-thirds vote of the whole Council.

Sec. 97.7. Referrals — Other Development Regulations

(1) No ordinance, order or resolution shall be adopted by the Council involving any of the following matters unless it shall have first been submitted to the Planning Commission for report and recommendation concerning the relationship of the matter involved to and its effect upon the General Plan, specific plans, and any other plans and regulations approved by the Commission or being prepared by the Department of City Planning:

- (a) Subdivision regulations.
- (b) Private street regulations.
- (c) Such other types of regulatory measures related to the General Plan or the development of the City as may be defined for this purpose by ordinance.

(2) Upon the receipt of any such proposed ordinance, order or resolution, it shall be the duty of the Planning Commission to make and file its report and recommendations thereon with the Council within a time limit prescribed by ordinance. If the Commission recommends approval or fails to make any recommendation within the prescribed time limit, the Council may adopt such ordinance, order or resolution by majority vote of the whole Council. If the Commission recommends against the approval thereof, the Council may adopt same only upon a two-thirds vote of the whole Council.

~~(4) Notwithstanding any of the provisions of this Charter to the contrary, any of the powers or duties conferred upon the City Planning Commission by subsections (1), (2) and (3) hereof, except those of reporting and recommending on the creation or change of zones or districts, or the regulations applying within said zones or districts, may be delegated to the Board of Zoning Adjustment by ordinance adopted by two-thirds vote of the whole of the Council, after report thereon by the City Planning Commission and the Board of Zoning Adjustment. All of the limitations and requirements hereinabove set forth in these subsections shall apply whether a matter is acted upon by the City Planning Commission or by the Board of Zoning Adjustment. In the performance of any of the duties so assigned to it, the Board of Zoning Adjustment shall hold such hearings as may be required by ordinance, and may conduct additional hearings, or may direct an examiner to conduct such hearings for it as prescribed by ordinance, and exercise such powers as prescribed in subsections (d), (e) and (f) of Section 89 of this Charter.~~

Sec. 97.8. Delegation of Authority

~~(5) The City Planning Commission may authorize the Director of Planning to approve or disapprove for the City Planning Commission or the Board of Zoning Adjustment, any ordinance, order or resolution which he finds is subject to the provisions of Sections 97.1 through 97.7 of this Charter. In exercising any such authority, the Director must find that his action conforms with the latest approved~~

all applicable portions of the master plan, General Plan and with all applicable specific plans or which conforms to with the latest action of said the Commission or Board; on the same matter. An action of the Director under this authority shall be subject to the same within the time limits and with shall have the same effect as if they the Commission had acted directly thereon.

Sec. 97.9. Hearings and Investigations

~~(3)~~ In complying with the provisions of ~~this section~~ Sections 97.1 through 97.7 of this Charter, the City Planning Commission shall hold such hearing or hearings as it may determine, or as may be required by ordinance, or may direct an examiner to conduct such hearings for it. The Director of Planning shall make such investigations relative to all matters mentioned provided for in ~~this section~~ Sections 97.1 through 97.7 as the City Planning Commission may direct and shall file his reports thereon with the Commission.

Sec. 98. Office of Zoning Administration

(1) There is hereby created as a quasi-judicial agency the Office of Zoning Administration. The functions and duties of this office shall be performed by one or more Zoning Administrators as authorized by the Council, and who shall be appointed by the Director of Planning subject to the Civil Service provisions of this Charter. If more than one Zoning Administrator is authorized, a position of Chief Zoning Administrator shall be established, the appointment to which shall be made by the Director of Planning, and such others shall be Associate Zoning Administrators.

~~The Zoning Administrator, if he has held such position for six (6) months previous to the time this section becomes effective, shall continue in the position of Zoning Administrator hereunder, and if he further holds such office at such time as the position of Chief Zoning Administrator is established shall be deemed to have the qualifications for and shall be and become the Chief Zoning Administrator.~~

(2) Subject to such rules and regulations as the Council may prescribe by ordinance, the Chief Zoning Administrator and Associate

Zoning Administrators shall have the following powers and duties:

- (a) ~~(1)~~ To investigate and make a determination upon appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Department of Building and Safety in the enforcement or administration of the provisions of any ordinance adopted by the Council creating zoning districts or regulating the use of property in the City.
- (b) To investigate and make a determination upon all applications for conditional use permits (which uses generally require a special degree of control to assure their compatibility with other surrounding uses) or any similar administrative determination required by the zoning ordinance to be considered and acted upon under criteria, standards and limitations established by ordinance. The granting of a conditional use permit or similar administrative determination shall not adversely affect the various elements and objectives of the General Plan. A Zoning Administrator may impose restrictions and limitations beyond those specified in the zoning ordinance where, for reasons cited in his findings, such restrictions and limitations are necessary to assure compliance with the purposes, intent and provisions of the criteria, standards and limitations established by ordinance.
- (c) To investigate and make a determination upon applications for planned unit development projects (which are generally large-scale projects adhering to the policies and standards described in the General Plan and inherent in the requirements of the zoning ordinance, but allowing flexibility in design of open spaces, height and placement of buildings and incidental uses) by the same procedures provided for considering and approving conditional uses, subject to the

restrictions, requirements and limitations consistent herewith established for planned unit developments by the zoning ordinance. The planned unit development procedure may be utilized for residential, commercial, or industrial projects.

(d) ~~(2)~~ To investigate and make a determination upon all applications for variances from any of the regulations and requirements of the zoning ordinances. Before granting an application for a variance, a Zoning Administrator must find:

(i) ~~(a)~~ That the strict application of the provisions of the zoning regulations or requirements ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the zoning regulations;

(ii) ~~(b)~~ That there are exceptional special circumstances or conditions applicable to the subject property involved or to the intended use or development of the property such as size, shape, topography, location or surroundings that do not apply generally to other property or land use in the same zone or neighborhood and vicinity;

(iii) That such variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances or unnecessary hardships, is denied to the property in question;

(iv) ~~(c)~~ That the granting of a such variance will not be materially detrimental to the public welfare or injurious to property or improvements in such the same zone or neighborhood vicinity in which the property is located; and

~~(v) (d)~~ That the granting of a the variance will not be contrary to the objectives adversely affect any element of the master plan General Plan.

In granting a variance a Zoning Administrator may shall impose such conditions as will remedy disparity of privileges and which are necessary to protect the public health, safety or welfare, and to assure compliance with the objectives of the master plan, General Plan in accordance with and the purpose and intent of the zoning ordinance. A variance shall not be used to grant a special privilege inconsistent with the limitations upon other properties in the vicinity and same zone in which subject property is located, nor may it be used to grant relief from self-imposed hardships.

(e) To determine, pursuant to procedures and limitations provided in the zoning ordinance, the proper classification of those uses not specifically listed in such ordinance.

(f) Under standards, limitations and procedures established by ordinance, to grant slight modifications in yard and area requirements of the zoning ordinance when the size or shape of the property makes the literal application of the yard and area requirements impractical.

~~No written finding shall be required in granting variances authorizing slight modifications in individual cases from area requirements of the zoning regulations. Written findings shall be made in conjunction with all other determinations of a Zoning Administrator and all such cases may be appealed to the Board of Zoning Adjustment.~~

(3) Determinations by a Zoning Administrator shall be supported by written findings of fact based upon testimony and documents presented to him, together with the results of his investigations, except that no written findings shall be required for slight modifications in yard or area requirements.

A Zoning Administrator shall make his decision a determination on any matter under his jurisdiction as expeditiously as is possible and in any event within 50 days from the date the matter is filed, except that this time limit may be extended by mutual consent of the applicant and the Zoning Administrator then having jurisdiction of the matter. The City Council shall by ordinance provide time limits within which a Zoning Administrator must act for each type of case under his jurisdiction. If no determination is made by a Zoning Administrator within these the prescribed time limits, the applicant may request that the matter be transferred to the jurisdiction of the Board of Zoning Adjustment Appeals, for a transfer of jurisdiction to said Board and for a determination of the original application, in which case the Board of Zoning Adjustment shall assume jurisdiction and the Zoning Administrator shall lose jurisdiction, except that the matter may be remanded to the Zoning Administrator or the Board may accept applicant's request for withdrawal of such transfer of jurisdiction, in which case the Zoning Administrator shall regain jurisdiction for the time and purpose specified by the Board. If the Board does not remand the matter to the Zoning Administrator, it shall consider the matter in the same manner as provided for the consideration of appeals; however, the Office of Zoning Administration shall make such investigations and furnish such reports upon such matters as the Board may request.

Upon making a determination upon any matter under his jurisdiction, a Zoning Administrator shall forthwith place a copy of his findings and determination on file in the City Planning Department of City Planning and furnish a copy of the determination to the applicant, and the Board Department of Building and Safety Commissioners and the Director of Planning. Such determination shall be final, except that an appeal may be taken as hereinafter provided. No variance granted no determination by a Zoning Administrator, other than a slight modification from in yard or area requirements, shall become effective until the expiration of an elapsed period after mailing notice to the applicant, which period shall be specified by ordinance. During this

period an appeal from the determination of a Zoning Administrator may be taken to the Board of Zoning Adjustment by any person aggrieved, or by an officer, board, department or bureau of the city, as hereinafter provided in this chapter. An appeal shall stay all proceedings in furtherance of the action appealed from pending its determination disposition.

(4) The Office of Zoning Administration may adopt such rules as it may deem necessary to carry out the rules and regulations prescribed by ordinance and which are not in conflict or inconsistent therewith. All such rules and regulations shall be available for inspection in the Office of Zoning Administration.

Sec. 98½.

Sec. 99. Board of Zoning Appeals

(1) There is hereby created as a quasi-judicial body a Board of Zoning Adjustment Appeals consisting of five (5) members, who shall be appointed by the Mayor subject to confirmation of the Council, one of whom may be a member of the City Planning Commission. The terms of the members of said Board shall be for five (5) years, except that the terms of the present members of the Board of Zoning Appeals on the effective date of this section shall continue for the balance of the respective terms for which they were appointed. One such term shall expire on June 30 of each year, except that the initial terms shall be of the following duration: one shall expire on June 30, 1963, one shall expire on June 30, 1964, one shall expire on June 30, 1965, one shall expire on June 30, 1966, and one shall expire on June 30, 1967. In case of any vacancy, other than one resulting from the expiration of a term, a successor shall be appointed for the period of the unexpired term vacated. The members of the Board of Zoning Appeals Adjustment in office on the effective date of this amendment shall continue in office as members of the Board of Zoning Adjustment Appeals for their then unexpired terms.

Three members shall constitute a quorum of the Board of Zoning Appeals, and the concurring vote of at least three members shall

be necessary in the determination of any matter. The members of said the Board shall receive such compensation as the Council may from time to time fix and determine, by ordinance, and they shall be exempt from the Civil Service provisions of this Charter.

Sec. 99.

(2) The Board of Zoning Adjustment Appeals shall have and exercise only the following powers:

(a) ~~To Hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision, interpretation or other determination made by a Zoning Administrator, either initially or in the determination of any appeal from the Department of Building and Safety as provided for in Section 98 of this Charter, in the enforcement of the provisions of any ordinance adopted by the Council creating zoning districts or regulating the use of property in the City.~~

(b) ~~To hear and determine appeals from the rulings, decisions and determinations of a Zoning Administrator granting or denying applications for variances from any rule, regulations, restriction or requirement of the zoning ordinance, or any section thereof. Hear and make determinations on any matter normally under the jurisdiction of a Zoning Administrator when such matter has been transferred to the jurisdiction of the Board pursuant to a request for transfer because a Zoning Administrator has failed to act within the time limits prescribed by ordinance.~~

(3) Appeals may be taken to the Board of Zoning Appeals by an applicant, any person aggrieved, the Director of Planning or the City Planning Commission. Such appeal shall set forth in writing wherein the appellant believes there was error or abuse of discretion on the part of a Zoning Administrator.

The Board of Zoning Appeals, when considering an appeal from an action by a Zoning

Administrator, shall base its determination only upon (a) the evidence and testimony introduced at the hearing, or hearings, if any, before the Zoning Administrator on the issue, (b) the record, findings and determination of the Zoning Administrator, and (c) the consideration of arguments, if any, presented to the Board orally or in writing. If an applicant or aggrieved person wishes to offer into the proceedings any new evidence including testimony in connection with the matter, a written summary of such evidence together with a statement as to why such evidence could not reasonably have been presented to the Zoning Administrator at the earlier hearing, all declared under penalty of perjury, shall be filed with the Board. If the Board determines that such evidence could not reasonably have been presented at the earlier hearing and is of such a nature as might reasonably have led to a different determination by the Zoning Administrator, the Board shall remand the matter to the Zoning Administrator who shall reopen the matter at a hearing limited to the receipt of evidence summarized to the Board together with evidence from other parties relative thereto, and, within such time as shall be prescribed by ordinance, make a new order, requirement, decision, interpretation or other determination in the matter. In considering appeals, the Board of Zoning Appeals shall be subject to the same limitations as are placed upon Zoning Administrators by this Charter and by ordinance.

~~Upon the hearing of such appeals said Board may affirm, change or modify the ruling, decision or determination appealed from, or in lieu thereof, make such other or additional determination as it shall deem proper in the premises, subject to the same limitations as are placed upon the Zoning Administrators by this Charter.~~

The Board may modify or reverse a determination of a Zoning Administrator only upon making written findings setting forth specifically wherein the determination of the Zoning Administrator was in error or constituted an abuse of discretion, and shall make specific written findings supporting any modification or reversal.

(4) The Board of Zoning Appeals, upon assuming jurisdiction of a matter after a transfer of jurisdiction from a Zoning Administrator, shall follow the same procedures and be subject to the same limitations applicable to a Zoning Administrator, and when the Board assumes jurisdiction the Zoning Administrator shall lose jurisdiction except that the matter may be remanded to the Zoning Administrator, or the Board may accept applicant's request for withdrawal of such transfer of jurisdiction, in which cases the Zoning Administrator shall regain jurisdiction for the time and purpose specified by the Board. If the Board retains jurisdiction the Office of Zoning Administration shall make investigations and furnish reports upon such matters as the Board may request. When a matter is requested to be transferred, the Zoning Administrator may file with the Board a statement of facts pertaining to the matter, and shall transmit to the Board the files in the case.

~~(e) Such additional powers as may be delegated to it under authority of Section 97 of this Charter.~~

~~Sec. 99 1/4.~~

(5) The Council, within the limitations established by this Charter, shall may prescribe

by ordinance rules and regulations providing for the time, manner, method and procedure for the hearing and determining of the matters under the jurisdiction of said board; the Board of Zoning Appeals. ~~provided, however, that~~ The Board may adopt such ~~other and additional~~ rules as it may deem necessary to carry out the rules and regulations prescribed by ordinance and which are not in conflict or inconsistent therewith. All ~~said such~~ rules and regulations shall be kept posted available for inspection in the office of the Board and a copy thereof furnished to any applicant. ~~Three members shall constitute a quorum, and the concurring vote of at least three members shall be necessary in the determination of any matter.~~

~~Sec. 99 1/2. In the event of the adoption of a charter amendment creating a Board of Administrative Appeals all appeals which are to be taken to the Board of Zoning Appeals, as hereinabove provided, shall be taken to the said Board of Administrative Appeals, and wherever the term "Board of Zoning Appeals" is hereinabove used it shall be taken to mean "Board of Administrative Appeals," and Section 98 1/2, creating said Board of Zoning Appeals, shall be inoperative for any purpose.~~

APPENDIX B
SUGGESTED DRAFT OF CHARTER AMENDMENT
RE: CONDUCT IN OFFICE

Note: It is proposed to: (1) amend Section 5 of the Charter by adding to the list of officers; (2) repeal present Charter Section 28 and 28.1 concerning conflict of interest; and (3) add new provisions at the end of Article IV under a new heading "Conduct in Office." In the following text, the proposed additions are shown in boldface type.

Amend Section 5 as follows:

Sec. 5. The officers of the City shall be:

A Mayor,
The Members of the Council,
A City Attorney,
A City Clerk,
A Controller,
A City Engineer,
A City Administrative Officer,
A Purchasing Agent,
A Secretary of the Board of Public Works,
A Treasurer,
The Members of the Board of Education,
A City School Superintendent,
The Members of the Boards of the Departments and the Chief Administrative Officer of each Department,

The Members of the Board of Referred Powers,

The Members of the Board of Zoning Appeals.

Such other officers as shall be named by ordinance.

* * *

Repeal Sections 28 and 28.1 which read as follows:

Sec. 28. Members of the Council and other officers and employees of the City shall be prohibited from voting or acting upon any matter, contract, sale or transaction to which the City or the Council, or such other officers or employees may be a party, to the extent and in all instances as now or may hereafter be provided by applicable general laws of the State of California. The effect of any such matter, contract, sale or transaction made or handled in violation of this section and the penalty to be imposed on any member of the Council or other officer or employee of the City acting in violation of this section shall be as now or hereafter provided by applicable general laws of the State of California.

Sec. 28.1. In the event the City Attorney is requested by any board, or member thereof, officer, except a member of the Council, or employee, to render an opinion upon the question of such board's, board member's, officer's or employee's prohibited interest under

Section 28 of this Charter, the City Attorney shall render a written opinion upon such question. Such board, board member, officer or employee may likewise request an opinion from the City Attorney regarding any situation wherein it may not be in the public interest for such board, board member, officer or employee to act in a particular matter, contract, sale or transaction and the City Attorney shall render a written opinion thereon.

In the event that pursuant to such request the City Attorney determines, by written opinion, that such board or board member, officer or employee has a prohibited interest under Section 28 of this Charter, or that it is not in the public interest for such board, board member, officer or employee to act in the matter, contract, sale or transaction involved, the same shall be transferred for action thereon to the Board of Referred Powers, which is hereby created. Unless such transfer is prohibited by an applicable general law of the State of California, the Board of Referred Powers is vested with the same power to act upon any matter, contract, sale or transaction so transferred to it with the same force and effect as if acted upon by the board, officer or employee from whom the matter, contract, sale or transaction was transferred. The Council shall provide by ordinance for all matters relating to number of members, appointment and functioning of the Board of Referred Powers and the procedure applicable in referring matters to it for its determination.

* * *

Add the following new sections at the end of Article IV:

CONDUCT IN OFFICE

Sec. 64.1. Ethics

The Council shall establish a Code of Ethics for all officers and employees of the City, whether elected or appointed, paid or unpaid. The purpose of this Code shall be to establish ethical standards of conduct for

all such officers and employees and to define those acts and actions that are incompatible with the best interests of the City. Such Code may be supplemented by codes of ethics adopted by the various departments, boards and agencies of the City, providing such supplementary codes are not inconsistent with the Council adopted City-wide Code.

Sec. 64.2. Conflict of Interest

(1) Intent

No officer or employee of the City shall participate in or act upon or vote upon any matter in which there is or might reasonably appear to be a substantial conflict between his personal interest and the public interest.

(2) Definition of Conflict

A conflict of interest exists when there is any circumstance which leads an officer or employee of the City, when involved in an official action by or in behalf of the City, to make a decision or to exercise discretion or judgment other than in the public interest. Circumstances which may create a conflict of interest include situations where an action by the City may affect particular groups, persons or property substantially differently from other groups, persons or property and an officer or employee involved in such action by or in behalf of the City has, directly or indirectly, a personal interest in the matter. A personal interest will be presumed to exist by reason of:

- (a) Current or prospective ownership of property involving substantial interest or control.
- (b) Current or prospective financial transactions.
- (c) Current or prospective employment.
- (d) Participation in an organization in a position of leadership or control or involving an obligation to the organization.
- (e) Personal relationships, through friendship, family or other relationship, which involve a compelling

obligation to anyone having an interest as described in subsections (a), (b), (c) and (d) above.

(f) Any similar influence.

(3) Disclosure and Disqualification

(a) An officer or employee who has a conflict of interest shall publicly disclose the general nature of the conflict prior to participating in or acting upon the matter involved on behalf of the City. If, after having participated in a matter but prior to final City action upon the matter, an officer or employee discovers that a conflict of interest exists, he shall immediately disclose that fact.

(b) Any officer or employee, upon disclosure that a conflict of interest exists, may disqualify himself from further participation in or action upon the matter involved. Any officer or employee, other than the Mayor, Members of the Council and Members of the Board of Referred Powers, who has a substantial conflict of interest, as such term is defined in any ordinance adopted pursuant to this Section, shall disqualify himself from further participation in or action upon the matter.

(c) When an officer or employee has a conflict of interest but does not disqualify himself, then a complete public disclosure of his personal interest in the matter shall be made at the time of initial disclosure.

(d) An officer or employee who has a substantial conflict of interest shall not communicate in any way with other officers or employees of the City concerning such matter except for statements of disclosure and disqualification as required under this Section.

(4) Implementing Regulations

The Council, by ordinance, may provide specific regulations refining the definition of

substantial conflict of interest, requirements and procedures for disclosure and disqualification, and such other implementing regulations as are consistent with the provisions of this Section.

Sec. 64.3. Board of Referred Powers

There is hereby created the Board of Referred Powers which shall consist of five members, none of whom holds any other position as an officer or employee of the City. Said Board shall exercise the powers and perform the duties provided for in this Charter. The Council shall provide by ordinance for the appointment and functioning of the Board of Referred Powers.

Sec. 64.4. Transfer of Jurisdiction

In the event that disqualifications made under Section 64.2 of this Charter shall render any agency of the City, other than the Mayor or City Council, unable to act upon a matter as required by law, then the matter shall be transferred for action to the appellate agency for the type of matter involved. If there is no appellate agency, then the matter shall be transferred to the Board of Referred Powers. The appellate agency or the Board of Referred Powers, as the case may be, is hereby vested with the power to act upon any matter transferred to it in accordance with this Section with the same force and effect as if acted upon by the agency from which the matter was transferred, and is subject to the rules governing the agency having original jurisdiction.

Sec. 64.5. Contributions, Gifts and Gratuities

(1) The Council, by ordinance, shall regulate and may prohibit the offering to and the receipt by or in behalf of any candidate for office, officer or employee of the City any contribution, gift or gratuity, in whatever form, which would tend to create a conflict of interest.

(2) All candidates for office, officers and employees of the City shall be required to submit itemized reports of contributions, gifts and gratuities, listing donors and amounts received from each donor. Such reporting shall

include indirect contributions handled through campaign committees, campaign management firms or other individuals and organizations.

Sec. 64.6. Private Communications

The Council, by ordinance, shall regulate and may prohibit private communications between interested parties and officers or employees of the City concerning official matters which are or may be under consideration by such officers or employees.

Sec. 64.7. Misconduct in Office

(1) Violations

Any officer or employee of the City who in the performance of his powers and duties violates the requirements of Sections 64.1 through 64.6 of this Charter or any ordinances adopted pursuant thereto shall be guilty of misconduct in office.

(2) Discipline

(a) Officers and employees subject to the civil service provisions of this Charter shall be subject to discipline and penalties for misconduct in office only under said civil service provisions.

(b) Appointed officers and employees not subject to the civil service provisions of this Charter and found guilty of misconduct in office shall be subject to suspension or removal by the appointing authority.

(c) Officers subject to the provisions of State law concerning misconduct in office shall also be subject to discipline and penalties in accordance with said provisions.

APPENDIX C

CROSS INDEX OF RECOMMENDATIONS OF THE CITIZENS COMMITTEE PRESENT CHARTER PROVISIONS AND PROPOSED CHARTER PROVISIONS

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Subject	Citizen Committee Recommendation Number	Present Charter Section	Proposed Charter Section	Page Nos. in This Report
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Terms of Office on Commission and Board	27	73	73	64
Legislative Matters Identified	29	None	97.1(1) 97.4(3)	19 23
Conduct in Office				
Code of Ethics	31	None	64.1	55
Conflict of Interest	32	28, 28.1	64.2	55
Board of Referred Powers		28.1	64.3	56, 99
Transfer of Jurisdiction		28.1	64.4	56, 59
Private Communications	33	None	64.6	60
Campaign Contributions	35	None	64.5	60
Misconduct in Office		None	64.7	61

APPENDIX D

STATUS OF CITIZENS COMMITTEE RECOMMENDATIONS

The following is a summary of the significant actions which remain to be taken in order to implement each of the Citizens Committee recommendations as set forth in its July 1968 report.

Action Required	Action Agencies	Present Status
Recommendation 1: General Plan Charter and Code Amendments		
Amend Charter	Electorate	Proposed amendment on May 1969 ballot (Sec. 96.5)
Adopt General Plan Code	Planning Department Planning Commission City Council	Under preparation
Recommendation 2: General Plan Procedure		
Include in General Plan Code	Planning Department Planning Commission City Council	Under preparation
Recommendation 3: Regularly Scheduled Area-By-Area Consideration of General Plan		
Establish areas and schedule	Planning Department Planning Commission City Council	City Council has approved schedule for initial completion of community plans throughout the City
Include requirements in General Plan Code	Planning Department Planning Commission City Council	No action pending completion of City-wide General Plan
Recommendation 4: Relationship of Zoning to General Plan		
Amend Charter	Electorate	Proposed amendment on May 1969 ballot (Sec. 96.5(5))
Amend Zoning Code	Planning Department Planning Commission City Council	Under preparation
Recommendation 5: Complete Revision of the Zoning Code		
Prepare new Zoning Code	Planning Department Planning Commission City Council	In progress
Recommendation 6: Zoning Map Revisions by Area		
Amend Charter	City Council Electorate	City Council rejected proposed amendment (Sec. 96.6)
Determine areas and schedule, amend Zoning Code	Planning Department Planning Commission City Council	No action

Action Required	Action Agencies	Present Status
Recommendation 7: Conditional Use Permits		
Amend Charter	City Council Electorate	City Council rejected proposed amendment (Sec. 98(2))
Amend Zoning Code*	Planning Department Planning Commission City Council	No action
Recommendation 8: Unclassifiable Uses		
Amend Charter	Electorate	Proposed amendment on May 1969 ballot (Sec. 97.2)
Amend Zoning Code*	Planning Department Planning Commission City Council	No action
Recommendation 9: Planned Developments		
Amend Charter	City Council Electorate	City Council rejected proposed amendment (Sec. 98(2))
File the previously proposed ordinance regarding Planned Residential Developments	City Council	Referred to Planning Committee of the City Council for further study. (City Plan Case No. 17155, Council File No. 119,840)
Amend Zoning Code*	Planning Department Planning Commission City Council	No action
Recommendation 10: "Q"—Qualified Zone		
File the proposal	City Council	Planning Committee of the City Council has requested the City Attorney to prepare an ordinance in accordance with revised recommendations of the Planning Commission (City Plan Case No. 20414, Council File No. 132,669)
Recommendation 11: Zoning Enforcement		
Provide adequate staff	Building and Safety Department	No action pending recommendation on Council File No. 119,840, referred to Planning Committee of the City Council (City Plan Case No. 19333)
Recommendation 12: Variance Requirements		
Amend Charter	Electorate	Proposed amendment on May 1969 ballot (Sec. 98(2))
Amend Zoning Code	Planning Department Planning Commission City Council	Under preparation
Recommendation 13: Office of Zoning Administration Status		
Retain present Charter provision	Electorate	Provision retained in proposed Charter provisions on May 1969 ballot (Sec. 98(1))
Recommendation 14: Zoning Administrators' Authority		
Amend Charter	Electorate	Proposed amendment on May 1969 ballot (Sec. 98(1), (2))
Recommendation 15: Board of Zoning Appeals' Function		
Amend Charter	Electorate	Proposed amendment on May 1969 ballot (Sec. 99)
Amend Zoning and Planning Codes	Planning Department Planning Commission City Council	Under preparation

Action Required	Action Agencies	Present Status
Recommendation 16: Procedural Code		
Amend Zoning and Planning Codes	Planning Department Planning Commission City Council	Under study
Recommendation 17: Public Hearing Notification		
Improve land records system	City Administrative Officer Planning Department City Clerk Data Service Bureau	Program development is continuing
Recommendation 18: Notification Subscription Service		
Establish service	Planning Department Planning Commission	Under consideration
Recommendation 19: Testimony Under Oath		
Include in Procedural Code	Planning Department Planning Commission City Council	Planning Commission recommends no change from present practice (City Plan Case No. 20493)
Recommendation 20: Verbatim Record of Hearings		
Continue present policy	Planning Department	In effect
Recommendation 21: Written Findings		
Amend Charter	Electorate	Proposed amendments on May 1969 ballot (Sec. 98(3), 99(3))
Amend Zoning Code*	Planning Department Planning Commission City Council	Under preparation
Recommendation 22: Appeal Procedure		
Amend Charter	Electorate	Proposed amendment on May 1969 ballot (Sec. 99(3))
Include in Procedural Code*	Planning Department Planning Commission City Council	Under preparation with respect to Board of Zoning Appeals
Recommendation 23: Transfers of Jurisdiction		
Amend Charter	Electorate	Proposed amendment on May 1969 ballot (Sec. 99(4))
Include in Procedural Code*	Planning Department Planning Commission City Council	Under preparation with respect to Board of Zoning Appeals
Recommendation 24: Commission and Board Appointments		
Exercise care in selection and confirmation	Mayor City Council	To be considered in connection with each appointment
Recommendation 25: Orientation of Commission and Board Members		
Prepare written materials	Planning Department	Compendium of Commission policies completed
Recommendation 26: Policy Reviews		
Arrange periodic sessions	Planning Department Office of Zoning Administration Board of Zoning Appeals Planning Commission	Partially in effect

Action Required	Action Agencies	Present Status
Recommendation 27: Terms of Office		
Amend Charter	Electorate	Amendment approved at April 1969 election
Recommendation 28: City Council Action		
Include in Procedural Code	Planning Department Planning Commission City Council	No action
Recommendation 29: Mayor's Veto		
Amend Charter	Electorate	Proposed amendments on May 1969 ballot (Sec. 97.1, 97.2, 97.3, 97.4)
Amend Zoning and Planning Codes	Planning Department Planning Commission City Council	Under preparation
Recommendation 30: Public Information Program		
Achieve improvements in availability of information, staff capability, etc.	Planning Department Planning Committee of the City Council	Handouts prepared on case procedures. Additional informational booklets under preparation. Speakers bureau in operation. Budget requests submitted for preparation of films and publications. Handout available explaining Committee procedure
Recommendation 31: Code of Ethics		
Amend Charter	City Council Electorate	Suggested amendment under study (Sec. 64.1)
Adopt City-wide code of ethics*	City Council	Under study
Recommendation 32: Conflict of Interest		
Amend Charter	City Council Electorate	Suggested amendment under study (Sec. 64.2, 64.3, 64.4)
Adopt ordinance	City Council	Under study
Recommendation 33: Private Communications		
Amend Charter	City Council Electorate	Suggested amendment under study (Sec. 64.5)
Adopt ordinance*	City Council	Under study
Recommendation 34: Field Inspections by Board of Zoning Appeals		
Adopt policy	Board of Zoning Adjustment	Under consideration
Recommendation 35: Campaign Contributions		
Amend Charter	City Council Electorate	Suggested amendment under study (Sec. 64.6)
Adopt ordinance*	City Council	Under study
Recommendation 36: Grand Juries		
Place item in City's State Legislative Program	Mayor City Council	No action

*These code amendments or ordinances do not require that related Charter amendments be adopted first.