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 intrest, 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

[34] **Los Angeles City Charter,** Sections 28 and 28.1.

[35] **California Government Code,** Sections 1090, 1091.1, 36525 and 36526.

[36] **California 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.

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 nonpolitical 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.

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[37] Roger 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.

[38] **California Government Code,** Sections 54950-54960.

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.[39] 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.[40]

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.[41]

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[39] **California Election Code,** Sections 11503 and 11560.

[40] See Herbert M. Baus and William M. Ross, **Politics Battle Plan** (New York: The Macmillan Company, 1968).

[41] **Los 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.[42]

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.

[42] **Los Angeles Municipal Code,** Sections 48.01-48.09 (Ordinance No. 134,571).

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,[43] 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).

[43]City 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 interrelated 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 at 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)

Recommendation No.	Action Item No. (from Figure 14)	Page No.	Recommendation No.	Action Item No. (from Figure 14)	Page No.
1	B-1, E-1	17	19	A-5, F-6	50
2	B-1, F-7	20	20	A-5, F-6	50
3	F-8	21	21	A-5, E-1	50
4	A-3, E-1	22	22	A-4	51
5	C-1, H-1	22	23	A-4	54
6	B-1, E-1, F-9, G-1	25	24	F-5	58
7	A-1	30	25	F-15, G-3	58
8	A-1	33	26	F-11	58
9	A-1, F-3	34	27	E-2, F-5	59
10	F-1	34	28	A-5, E-1	62
11	F-16, G-2	38	29	A-5, E-1	62
12	B-1, E-1	39	30	G-4	64
13	F-2	41	31	F-12	65
14	E-1	42	32	D-1, E-3	66
15	A-2, B-1, E-1	42	33	D-2, E-4, F-10	67
16	A-5	47	34	F-10	68
17	F-13	48	35	D-3, E-5	68
18	A-5, F-14	49	36	F-4	69

Figure 15. Cross-Reference of Recommendations, Implementing Actions and Discussion in Report

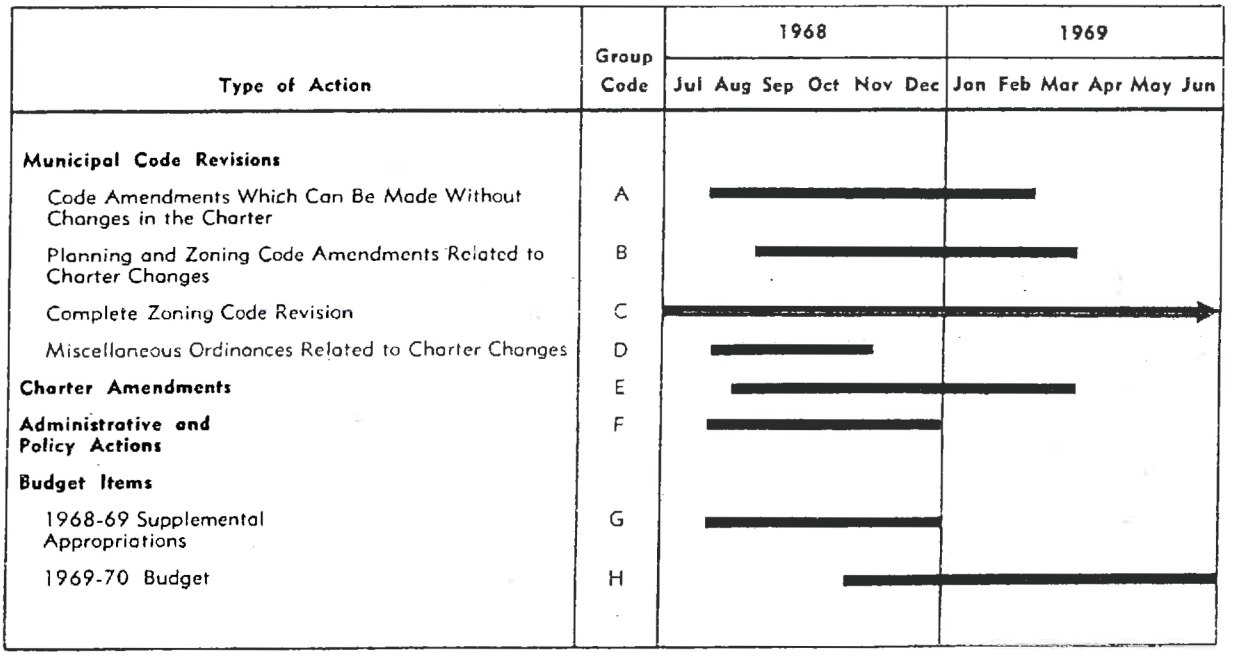

Figure 16. Suggested Schedule for Planning and Zoning Improvements

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, expediters, 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 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, retricted 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 unresricted 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 horsekeeping. (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.**

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 Committe 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 compaign 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 compaigns, 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. Pollon, 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 Industries Department

LOS ANGELES HEADQUARTERS CITY DEVELOPMENT ASSOCIATION
William A. Feathers, President
H. Randall Stoke, Chairman, Committee on Corporate Investigation

LOS ANGELES REALTY BOARD
Earl Anderson, Executive Vice President

NORTHRIDGE CIVIC ASSOCIATION, INC.
Frank J. Brew, President
Charles B. Anderson

REGIONAL PLAN ASSOCIATION OF SOUTHERN CALIFORNIA, BOARD OF DIRECTORS
John Kewell, AIA
David Collins
Mrs. Bennett W. Priest

REGIONAL PLANNING COMMISSION OF LOS ANGELES COUNTY
Milton Breivogel, Director

RESEDA CHAMBER OF COMMERCE
Leland Pickering, Chairman, Planning and Zoning Committee

SUNHILL PROPERTY OWNERS
Mitchell C. Chutuk, Zoning Chairman

UNIVERSITY OF CALIFORNIA, LOS ANGELES
Fred E. Case, Director, Real Estate Research Program
Donald G. Hagman, Assistant Director, Institute of Government and Public Affairs

WOODLAND HOMEOWNERS ASSOCIATION
Frank J. O'Neill, Past President

INDIVIDUAL CITIZENS

Hal F. Baron, Attorney, Encino
Mrs. Jacob Basnian, Woodland Hills
Paul Boone, Woodland Hills
Edward J. Boyd, Attorney, Van Nuys
Mrs. Margaret Derse, Woodland Hills
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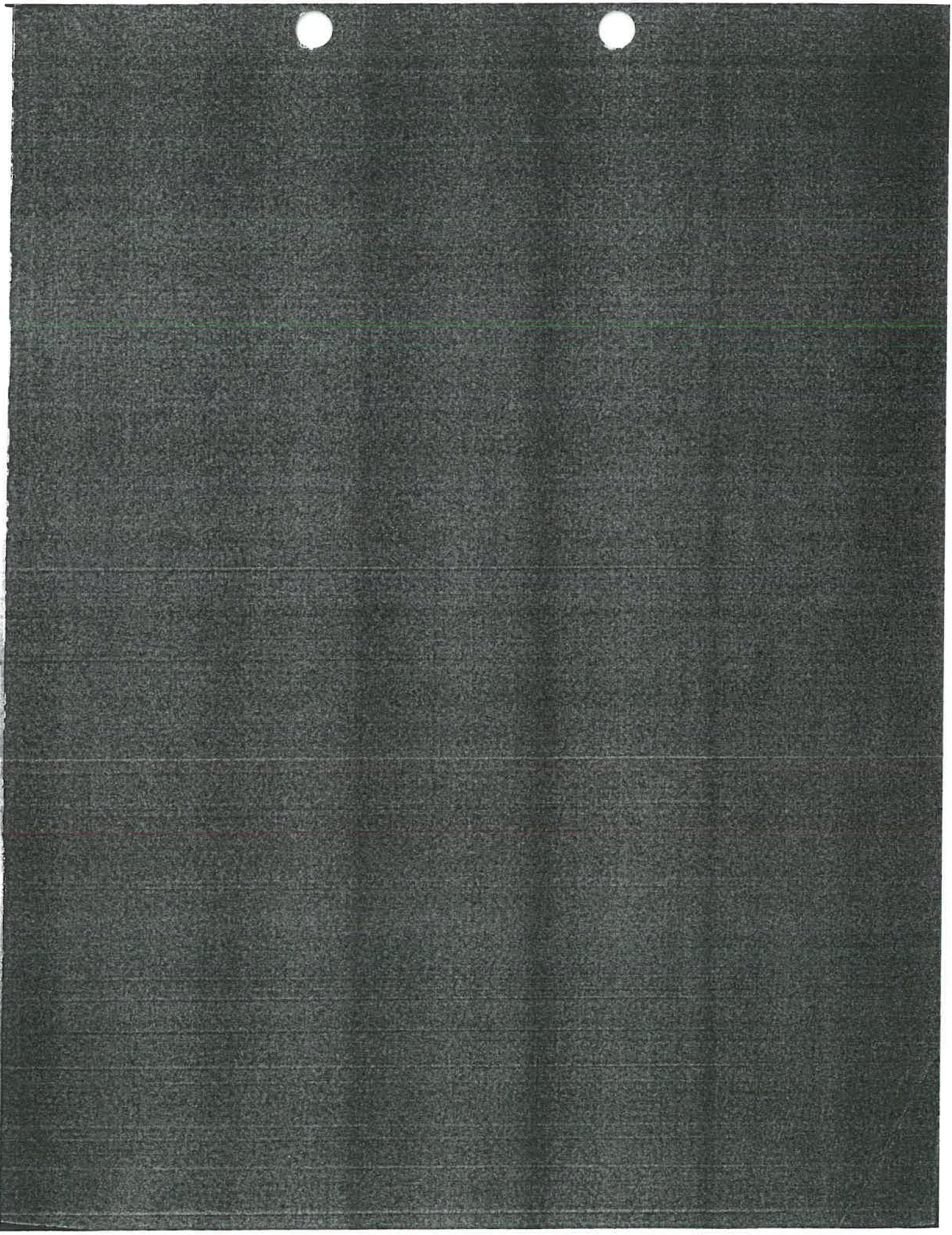

A PROGRAM TO IMPROVE PLANNING AND ZONING IN LOS ANGELES

SUMMARY

CITIZENS COMMITTEE ON ZONING PRACTICES AND PROCEDURES

FIRST REPORT TO THE MAYOR AND CITY COUNCIL

LOS ANGELES, CALIFORNIA / JULY, 1968

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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

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First Director of Planning, City of Los Angeles, 1920-1930

Citizens Committee on Zoning Practices and Procedures
Room 375, City Hall, Los Angeles, California 90012

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.

[1]Persons 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 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 farsighted 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.

Recommendations[2]

- 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)
- 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.

[2] Throughout 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.

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.

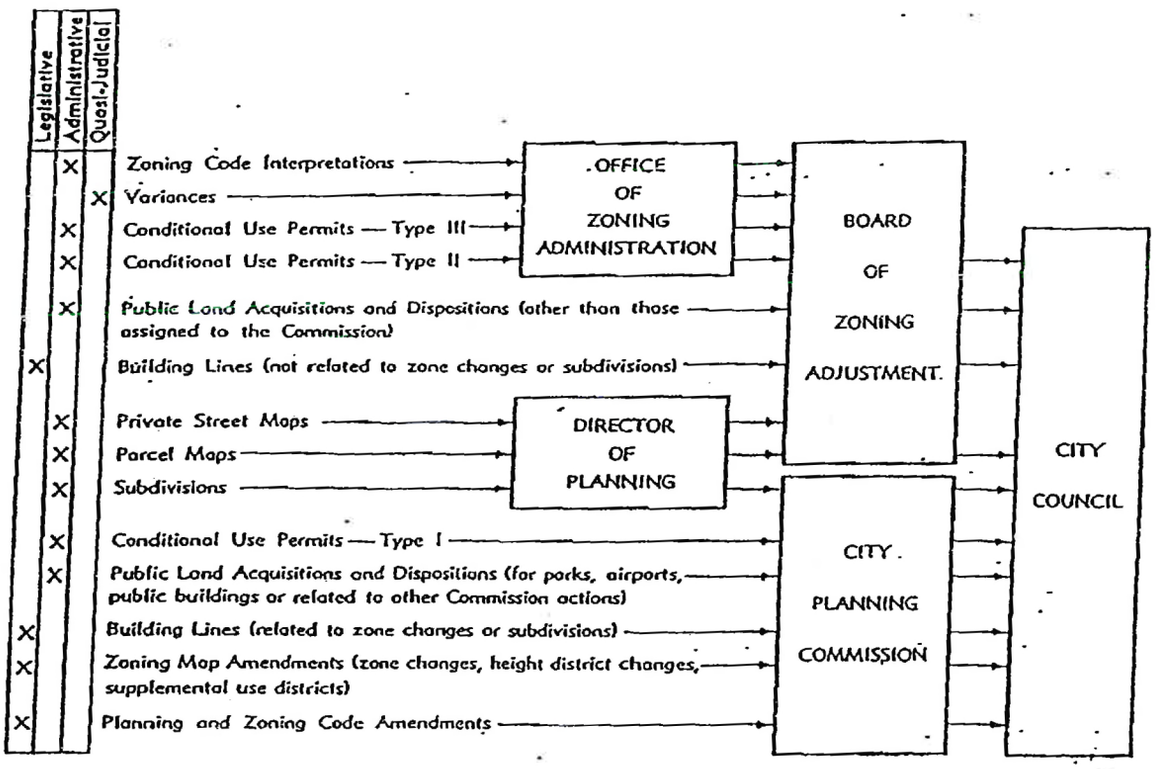
The legislative body should establish adequate and stable standards and thus prevent usurpation of legislative authority by administrative and quasi-judicial agencies. (See the figure "Proposed Assignments.")

"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.

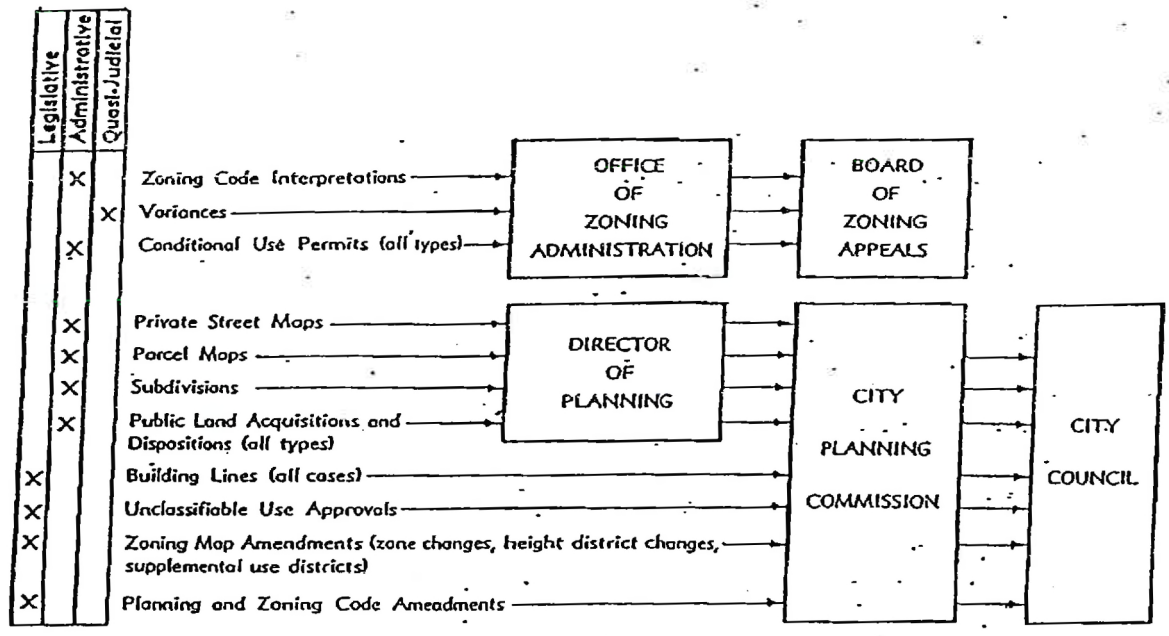
Recommendation

- 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 cannot 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 requirements 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 fifteeen 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 difficult 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
  - Appeals

  for 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)

APPEALS

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

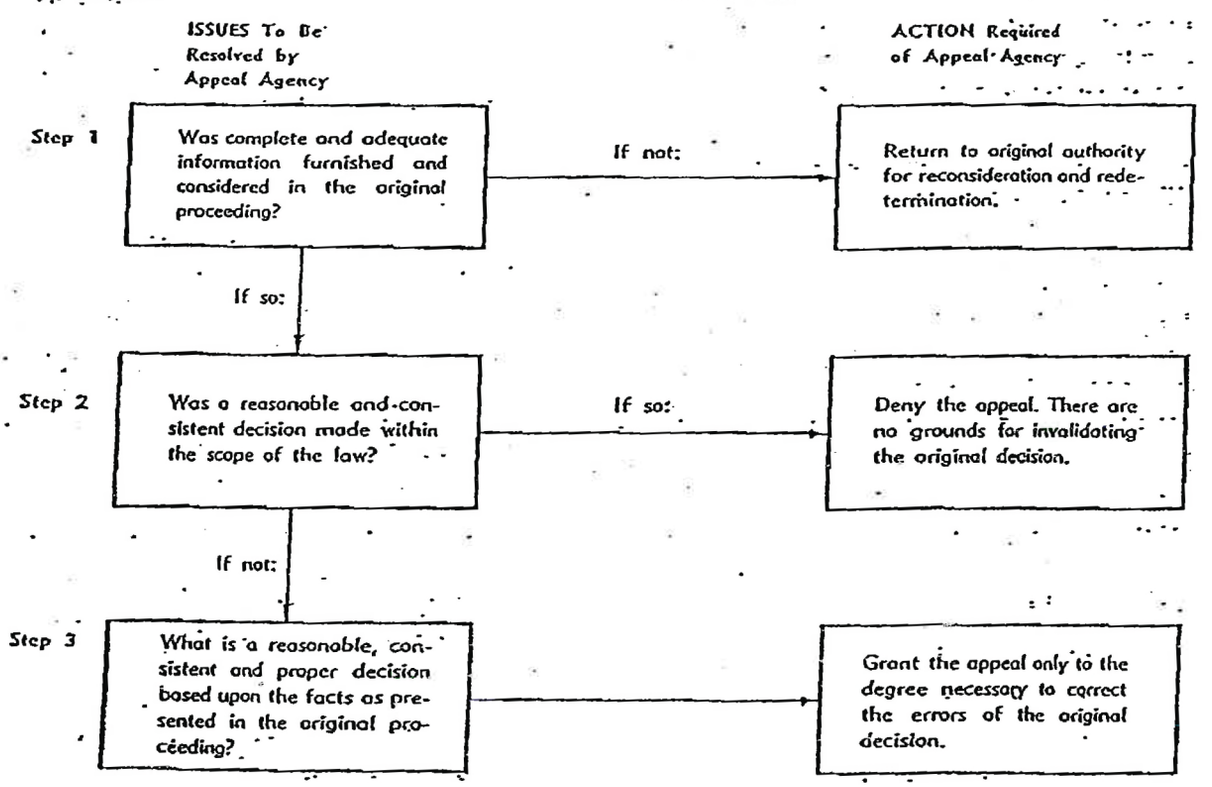
  A longer time to file appeals so that they may be more carefully prepared

  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 2

CITY OF LOS ANGELES
CALIFORNIA

WALTER C. THIEL
CITY CLERK

OFFICE OF
CITY CLERK
ROOM 395, CITY HALL
LOS ANGELES, CALIF. 90012
MADISON 4-5211

SAM YORTY
MAYOR

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

132460

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.

Walter C. Thiel

City Clerk

km

Planning Committee

DEC 21 1966

ZONING STUDY REPORT & 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:

DECEMBER 21 1966

PLANNING COMM.

1. That specialists in the field of zone problems who have been identified by various terms such as land consultants, expediters, 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 3

2-3-67

Zoning

esidents Often Victims in Zoning Changes

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

EORGE REASONS
Times Staff Writer

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

ıe sat on a large, heavily
and had an 18 by 36-foot
pool in the rear.

ier's wife held a lease on
good for another six
:h an option to renew for
ır.

l the home despite the
ıe Golden State Freeway
ıe property. She planned
t out there until her
turned from the war.

ecision wasn't to be hers.
ıst to her, the property
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ation had been filed for a
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ield investigator from the
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rying to substantiate the
e by an expediter, now
esenting the new owner
ay traffic noise and the
adlights made it impos-
ep tenants. This was the
ehind his application for
)" zone variance.

. investigator questioned
's wife and in August,
rote a report based on
ad told him:

the field investigation it
ered the residence is not
is occupied by a tenant
a lease until February,
an option to extend it
ar.

ation with the tenant
he is waiting for her
) return from Vietnam.

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 expediters in the zoning process.

In an inter-departmental memo he wrote:

"Too much credence is given to statements of expeditors who often 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 expediters."

The "well-known" expediters 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 fistsful 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 expediters. 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 expediters 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 expediters 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 expediters say.

Smutz might have made another point but didn't—expediters and Planning Commission, zoning ministrator and Board of Z Adjustment do NOT testify u oath.

The applications t file variances or changes of zone, o other hand, are sworn stateme but even here ownership oft hidden.

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

On occasion, expediters have known to deliberately evade pe tent questioning by the zo administrator.

In other cases they have so zoning changes for a stated pur such as development of a s retail store, but later th e t out to be a service statio

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

The case for a zone chang considered to be somewhat stro when it is sought by someone has held the property for some instead of by a developer bought it intending to rezon immediately for commercial us

Often an expediter will file application for a zone change in name of one person and indicat owns the property when act the deal might involve a dozen erships.

In some of these cases, t omitted from the application related to city officials by bloo business ties and were not anx

Los Angeles Times

PART III — WEDNESDAY MORNING, MAY 3, 1967

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 expediters 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 expediters 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 $20,000 to

by O'Melveney & 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."

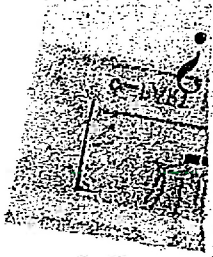
Many zoning matters, including variances and certain kinds of conditional use permits, are handled exclusively by civil servants and the appointive Board of Zoning Adjustment. They never come before an elected official.

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-



Indicted for Grand Theft

Before cr[illegible] votes were cast in the case, it w[illegible]estified, 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 rots 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

2—ZONE VA[illegible]CE—An administrative act to [illegible]e a hardship imposed by zoni[illegible] 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.

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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

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 $51.03 were levied on the vacant land.

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

Please Turn to Page 29, Col. 1

ZONING BOARD

Continued from First Page

are denying things don't have good memories."

Other witnesses before the blue-ribbon committee, which is headed by former Mayor Fletcher Bowron, included Mayor Sam Yorty and Councilmen Paul H. Lamport, Gilbert W. Lindsay, Marvin Braude, John S. Gibson Jr. and L. E. Timberlake.

Yorty's Opinion

"My view," said Yorty, "is that a man who acquires a piece of property . . . has a constitutional right to develop that property as long as he doesn't hurt his neighbor."

Yorty said that to refuse to grant a zoning change sometime "can amount to confiscation" of the property.

The mayor said he has "a strong sense of rights of individuals" and that a zoning change "should be City Council, the mayor said:

"You're welcome to take in any area and expand your scope any way you wish . . . The files are open to you. You can look at anything you want."

Hits Pressure

Lamport said he regarded the pressure of organized property owners as "more dangerous" than that exerted by "someone who contributes to a councilman's campaign."

"Hillside groups tell you if you don't vote with them you can no longer expect to be a councilman," he said. "That kind of pressure is very dangerous and unfair and unclean . . ."

Lindsay agreed with Lamport, saying:

"The greatest pressure groups are those that aren't paid. Those are the people who say, 'I'll remember you on election day. I'll get out the campaign against you.'"

Gibson said that a source wouldn't have so much trouble," he said.

He also urged a full-time employe to represent citizens in presenting zoning matters to the board.

Braude told the committee he expected it to "view recommendations of the grand jury" on zoning matters.

"The council hasn't done this," he said. "We have given this burden to you. This should be your first order of business."

Timberlake's Views

Timberlake, the council president, commented on current criticism of zoning practices:

"Wherever humans are involved you are going to have such cases, no matter how hard you try to correct them.

"I'm not too alarmed by charges of corruption in planning. I'm sure some exist, but I feel it's minimal and not the general practice."

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.

★

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, [illegible]

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 "expediters" 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.

File: Newspaper Clipping - Conflict of Int.

5-11-67

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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L.A. TIMES

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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 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 expediters (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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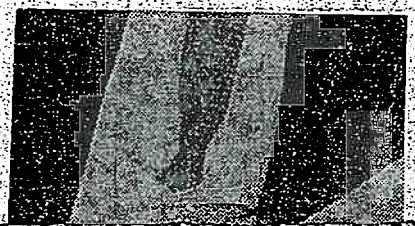
L.A. TIMES



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

Story on Page 16, Part 1

ZONING PROBE

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 remarkable gesture in an extraordinary rezoning case.

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.

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.

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 everything 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 QUITS 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 representative of Ralphs in the rezoning of Woodland Hills property for a shopping center sought by the Motion Picture Country House and Hospital.

The reporter made no statement as alleged by Yorty.

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

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 A. Kenworthy, another San Fernando Valley developer.

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 with the clarification that The Times did not imply 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 notoriety.

"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."

File: Mayor Yorty

LAT 6/8/67

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 newspapers 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."

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 represented Ralphs 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 surmisal 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

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-

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LAT 6/23/67

RECORDS

Continued from First Page

flicts 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 reporters) 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 purposes," 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 informed 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

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 volved 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 columns.

(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.

sione[illegible]0 a meeting. They meet once [illegible]eek. 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 [illegible]ury investigations of two cases—[illegible]e of which is currently before the [illegible]urts. I shall continue to investi[illegible]te 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 [illegible]ts and all the parties have bee[illegible]rd. 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 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 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 into 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 one—assigned to cover all the day-to-day news in City Hall.

(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 Stand

"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 on 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 s

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 B. (Tex) Collins, president of Cal Automotive, and his North Hollywood auto parts concern.

Tweedy voted to grant a controversial zone 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 months-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

re: Citizens Committee on Zoning Practices & Procedures

LAT 7/26/67

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.

Witness Accuses Zoning Board of Bias, Discourtesy

LAT 8/4/67

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

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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.

9-1-67
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)

Jud Bowron

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 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-

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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

CITY OF LOS ANGELES
CALIFORNIA

MEMBERS
FLETCHER BOWRON
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RUDOLPH OSTENGAARD
VICE CHAIRMAN

JOHN C. BOLLENS
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AVERILL MUNGER
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SAM YORTY
MAYOR

GEORGE RIGBY
SECRETARY
375, CITY HALL
DEPUTY FOR
WALTER C. THIEL
CITY CLERY

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.

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, expediters, 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.

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.

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

Practice & Procedure

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 36 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 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

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 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 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 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 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

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 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

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

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. (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.

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 allowing individual councilmen to control zoning decisions in their districts.

Summary of Recommendations on Page 10, Reaction on Page 11, Part 1.

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 contained 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 Ostengaard, 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 peddling 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 committee 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.

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City Councilmen React Favorably to Report

Recommendations of Committee on Zone 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 [illegible] of the report but by [illegible]rough 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 on matters in which they have personal or private interest.

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 Lampert

Councilman Paul H. Lampert 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."

L.A.T.

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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 an 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."

New Evidence

3—The board heard new evidence which it properly shouldn't 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.

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 said 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

rotating area, by area basis.

Zone changes in a particular area would be considered only when the general plan of that area was being reviewed.

A zone change in a particular case would require specific written findings showing it would not violate the purposes of the general plan and would help to eliminate arbitrary decisions based on political pressure or other factors, the committee said.

The committee also called for a rewriting of the zoning code so that compatible uses for property would be grouped in the same classification.

The committee said this would help to prevent such conflicts as having an auto body shop adjacent to an apartment building.

Whitnall said zoning practices in the city have grown into a mixture of legislative, judicial and administrative functions which the committee sought to "unscramble" by defining the proper role of each agency involved.

A number of the committee's recommendations deal with this problem.

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.

LAT
8-26-68

Zoning Report to Ask Priorities or More Help

Planning Director Says Overhaul Proposed by Bowron Can't Be Effected With Present Staff

BY ERWIN BAKER
Times Staff Writer

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 channeled, 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 Aug. 1 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 municipal 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 facts, consideration of 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 Procedure

9—Amend the zoning code to standardize the procedure for transfer of jurisdiction to an appelate 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.

File: Planning - Zoning Practices & Procedures -

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.

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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 Huber 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.

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.

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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 [illegible]

SEP 24 1968

Plan to Require Oaths at Zoning Hearings Opposed

BY RICHARD WEST
Times Staff Writer

City planning commissioners refused outright Monday to concur in two of the 36 recommendations to improve city planning and zoning made by the Citizens Committee on Zoning Practices and Procedure.

These included one that "all testimony and other statements of fact be given under oath" at hearings and another to prohibit private oral or written communications between interested parties and members of the City Planning Commission or Board of Zoning Appeals.

The commissioners said in a report to the City Council's Planning Committee that they did not consider themselves qualified to judge two other recommendations.

Further Study Sought

They made no recommendation on another one and said they would have to study five others and part of a sixth for up to 45 days before giving their position on them.

Concurrence was given in the other 25 recommendations, but in most cases only if modifications were made.

Regarding the oath recommendation, the commissioners said:

"The nature of the matters before the commission, its recommendatory role and the best atmosphere and procedures for its meetings call for free expression by the many different people involved.

"To make oath-taking mandatory on all at all times, rather than discretionary as now, would be a serious mistake."

"As to any prohibition of private

Please Turn to Page 8, Col. 4

Planning Commission Opposes Oath Proposal

Continued from First Page

communications, they commented:

"To try and legislate personal ethics and judgment beyond a point produces more problems and potential abuses than it

commissioners felt unqualified to consider were on campaign contributions which may affect planning and zoning matters and an expansion of the powers of grand juries to permit investigation of municipal planning and zoning mat-

No recommendation was made on a proposed conflict of interest ordinance.

The report was signed by John J. Polloh, commission president; Melville C. Branch, vice president, and members Elizabeth K. Armstrong and David S. Moir.

"Do you wish us," the commissioners asked the council committee, "to proceed to develop the

tion or specific legislation to effectuate the citizens committee recommendations as modified by us?"

The citizens committee made the 36 recommendations for sweeping reforms in planning and zoning procedures last July after a year-long investigation prompted by a grand jury inquiry.

The blue-ribbon committee was headed by former Mayor Fletcher

L.A.T. 11/4/68

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 2½-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 constructive 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

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.

Los Angeles Times
CC PART II †
EDITORIALS
FRIDAY, FEBRUARY 7, 1969

Citizens Panel Assails 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
Times Staff Writer

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 91-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 conflict 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 pattern 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 finds approach to zoning can provide little 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, 1967, 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 Bowron. He was succeeded by Rudolph Ostengaard, vice president of the United California Bank.

Other committee members are 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 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-

See Turn to Page 30, Col. 6

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 employes 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 attorney's office as to how

One 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 friendships 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 employes of the city to submit itemized reports of such donations, listing donors and amounts re-

at City Hall, the committee noted that the Brown Act prohibits members of public bodies from reaching joint decisions in secret.

The protection of local public officials from private pressure and arrangements hidden from public view should be expanded, the committee said.

One regulation would bar oral or written communications between officials regarding any matter pending before a board or commission except those presented in open public meetings or addressed to the agencies as a whole.

Councilmen and the mayor would be excepted, however, the report said, observing that "the remedy for abuses by elected officials is at the ballot box."

Changes in the procedure for appointment of commissioners also were urged by the committee.

It noted dangers in present provisions which allow an appointee to be removed from office at any time simply by appointment of a replacement by the mayor and confirmation by the council.

To preclude this possibility, the committee suggested that in such a case that removal must precede a new appointment.

By requiring separate removal, "arbitrary removal would be unlikely," the committee declared.

It also called for changing to the council of power to initiate removal by a two-thirds vote and in the event of mayoral opposition a four-fifths vote to sustain the action.

L.A.T. 1/22/69

Citizens Committee Report on Zoning OKd, 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 recommended 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 "led to grief."

He said zoning had been "shot through with holes" by the conditional use permit.

Whitnall called for the adoption of conditions to be met for a conditional use permit and determination of standards for planned developments. He said that trying to deal with each problem by ordinance had led to a "mess."

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 conditional use 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.

ZONING REPORT

Continued from First Page

L.A.T 1/30/69

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 late 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 as

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2—Changing of zones on a periodic and area-by-area basis rather than under the present procedure of processing these cases upon the filing of an application or upon initiation by the council or commission.

Because of a difference of opinion between the two council committees, however, this proposal is being submitted without recommendation.

Opposed on Some

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 the handling of planned unit developments and conditional uses.

The commission believes the charter should contain no reference to such developments and that conditional use matters should be taken up at present.

That means they would continue to be processed through the Office of Zoning Administration or Commission, with the right of appeal to the Board of Zoning Adjustment and/or the council.

It is generally accepted, however, that the council committee's recommendation would, in effect wipe out the authority of the BZA.

The citizens committee feels that conditional uses should continue to be processed through the Office of Zoning Administration and a newly-named and redefined Board of Zoning Appeals. Its decision would be final.

Gordon Whitnall, the nation's city's first planner and spokesman for the citizens group, warned that exclusive consideration of appeals by the council has "led to grief," as evidenced by the grand jury's findings.

Some of the San Fernando Valley's most controversial zoning cases have involved conditional uses which wound up in the council.

Under the citizen committee's plan, the BZA, presently a 5-man citizen board appointed by the mayor with council confirmation, would act like a court.

Appeals from its rulings would have to be taken to a duly-constituted court of law.

Dr. Melville Branch, a planning commissioner, declared that such a procedure would be "indefensible" 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 peoples' elected representatives.

LAUGH IT OFF



"How many ways have you failed me? Let me count the ways."

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.

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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.

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.

Exclusion Asked

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.

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 Ernani 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 avoid case proceedings on zoning changes.

"The present procedure," he charged, produces spot zoning, undermines confidence in the zoning pattern and is an ineffective procedure" for both the city government and the public.

At his news conference, Mayor Sam Yorty said that, in general, he inclined to agree with recommendations of citizen's committee, but sided with the Planning Commission's stand on the 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 Staff 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 Ernani 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 36 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 Dvorin, however, insisted that some "compatible uses" were not "primary uses."

EQUAL RIGHTS FOR ALL

Los Angeles Times

LIBERTY UNDER THE LAW · TRUE INDUSTRIAL FREEDOM

HARRISON GRAY OTIS, 1881-1917 *HARRY CHANDLER, 1917-1944*
NORMAN CHANDLER, 1944-1960

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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 world "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 4

Found (See Page 3, Part 1)

THURSDAY FINAL

es Times

...41 DAILY, 1,100,311 SUNDAY.

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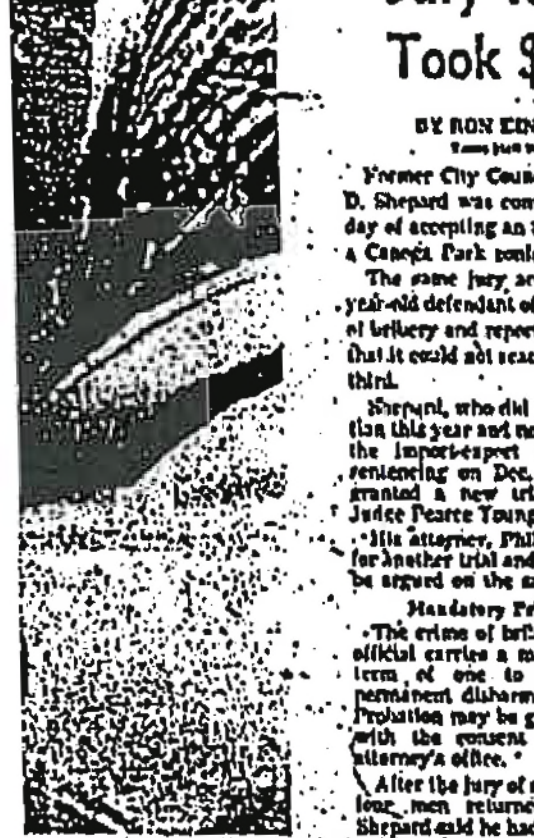

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...otesters

...MIT Prof. Jerome Lettvin short... before police marched to the head ...Osborn St. for the slow sweep past ... laboratory. Lettvin wept and ...ok his head after saying the dem...strators earlier had almost voted ...disperse in the face of police.

The police, grouped in tight ranks, ...ved in platoons, not scattering ...the crowd of retreating demon...ators, except in isolated instances.

...A few rocks were thrown from a ...rking lot, but police chased the ...owers away without injury to any ...icers.

Please Turn to Page 19, Col. 1

...outhland Gets Rain ...s Storms Approach

BY DICK MAIN

Jury Rules Ex-Councilman Took $11,000 in Zoning Case

BY RON EINSTOSS

Times Staff Writer

Former City Councilman Thomas D. Shepard was convicted Wednesday of accepting an $11,000 bribe in a Canoga Park zoning case.

The same jury acquitted the 47-year-old defendant of a second count of bribery and reported to the court that it could not reach a verdict on a third.

Shepard, who did not seek reelection this year and now is engaged in the import-export business, faces sentencing on Dec. 4 if he is not granted a new trial by Superior Judge Pearce Young.

His attorney, Phill Silver, moved for another trial and the motion will be argued on the same day.

Mandatory Prison Term

The crime of bribery by a public official carries a mandatory prison term of one to 14 years and permanent disbarment from office. Probation may be granted, but only with the consent of the district attorney's office.

After the jury of eight women and four men returned the verdicts, Shepard said he had no comment.

Silver, however, said, "This is the greatest miscarriage of justice the state of California ever had in a criminal case."

He said there is absolutely no evidence that a bribe ever was paid or that there was any corrupt agreement between Shepard and anyone that his official decision would be influenced by the $11,000.

Shepard claimed that the money, given him by three men who had a zoning matter pending before the City Council, was a loan, not a bribe.

Although he voted in favor of the rezoning, he said he did so on its merits and not because the applicants had loaned him any money.

No attempt was made by Shepard to repay either the loan, which he received in 1961, or the interest until after the investigation began many months later.

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The former councilman, who also

Please Turn to Page 29, Col. 1



CONVICTED — Thomas D. Shepard after jury found him guilty of accepting a bribe.

Seale Held in Contempt, Gets Four-Year Term for Outbursts

BY WILLIAM CHAPMAN

Exclusive to The Times from the Washington Post

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The rulings have the effect of removing Seale from the courtroom and presumably permitting the trial to continue without running into the constitutional problem of trying a man who cannot be present in court.

Given a chance to speak against ...

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6 NOV 6

Los Angeles Times

LARGEST CIRCULATION IN THE WEST, 972,845 DAILY, 1,100,311 SUNDAY.

VOL. LXXXVIII † SEVEN PARTS—PART ONE | CC | THURSDAY MORNING, NOVEMBER 6, 1969 | 136 PAGES | Copyright © 1969 Los Angeles Times | DAILY 10c

BIG INNOVATORS

Police Changes Coming From Small Cities

BY JERRY COHEN

Times Staff Writer

"Our job used to be strictly cops-and-robbers. The bad guy versus the good guy. Now we want to be, need to be, involved in total community problems." —Donald Perkins, captain, Culver City police department.

A freshet of change, scarcely visible except to those at its source, courses through law enforcement today.

It is occurring in the small-city police department, especially the one that is a part of megalopolis.

Big-city departments historically have been the shakers and movers, with the public always a spectator to their trauma and triumph.

But small-city departments—until the mid-1960s—fumbled along unnoticed.

But all that has changed. Or is changing.

Challenging Old Concepts

No longer are small-city departments blind imitators. Instead, they are challenging old concepts with experiment and discarding tired techniques through innovation.

As a result small departments are becoming the copied rather than the copiers.

For example:

MONTEREY PARK — Everett Holladay confesses that "a big reason" he quit as assistant chief at Pomona, where he organized that city's juvenile bureau, to take over the Monterey Park department in 1962, was impatience. "I had a lot of ideas and I wanted to put them in work," he said. He's been doing just that, with particular emphasis on that area in which he concedes statistics are inestimable: crime prevention. ("There are no statistics on crimes you prevent.") Before-the-fact law enforcement is the major focus of any resourceful small city chief today. In fact, all progressive policemen. But Holladay is an evangelist in its behalf.

"Working with youngsters is what got me so deeply involved," he said.

Tied to Community Involvement

Almost all labors in this direction are tied to community involvement.

Perhaps his most widely copied innovation is what the Monterey Park department calls Operation Identification. At latest reading it has been the model for similar undertakings in 74 California law-enforcement agencies, 11 in other states and one in Israel.

As defined in a department brochure, Operation ID works this way:

"By etching his driver's license number on items of value, the citizen will discourage theft of his personal property. A driver's license number is the only number that is permanently assigned to an individual which may be traced to the person by a law enforcement agency. Thus, an item etched in this manner is too hot for the thief to handle.

"The Exchange Club of Monterey Park has provided the electric etching tools, available at any time, day or night, at the police department, to be borrowed by Monterey Park citizens to mark their valuables.

"Also available is a sticker for a conspicuous place near the front

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FRUSTRATION ON CAMPUS—MIT Prof. Jerome Lettvin breaks down after seeing Cambridge police rush youths protesting war and related research. Lettvin had been acting as intermediary.

GOP Says Election Victories Show Support for Viet Policy

Nixon Greets New Governors of New Jersey and Virginia as Morton Claims 'Silent Majority' Spoke Out in Voting

BY WILLIAM GREIDER

Exclusive to The Times from the Washington Post

WASHINGTON—President Nixon held a victory luncheon at the White House Wednesday to toast the two new Republican governors he helped elect in New Jersey and Virginia.

While the President greeted A. Linwood Holton of Virginia and William T. Cahill of New Jersey, Republican leaders acclaimed the outcome as evidence of public endorsement for the Nixon Administration generally and the President's Vietnam policy in particular.

"It seems that the great silent majority of Americans might have done some talking at the polls

Fulbright committee drops plans for public Viet hearings. See Page 3.

yesterday," said GOP National Chairman Rogers C. B. Morton, referring to President Nixon's Monday night plea for support from the nation.

While the Republicans could claim the two dramatic statehouse victories from Tuesday's election, Democratic leaders pointed out that the "silent majority" spoke with a much different message in many of the nation's major cities.

In New York, Mayor John V. Lindsay said his reelection as a Liberal-Independent, running against the Republican and Democratic banners, was "a message that the people of New York want the war in Vietnam to end."

And, despite vigorous, well-financed challenges by Republican candidates, Democratic majorities were maintained in such major cities as Pittsburgh, Cleveland, Buffalo and New Haven. Democratic incumbents also held onto the mayor's office in Toledo, Ohio, and Albany, N.Y.

In addition, Democratic challengers managed to oust Republicans in Louisville, Ky., and Syracuse, N.Y., as well as in the smaller communities of Harrisburg, Pa., Waterbury, Conn., and East Orange, N.J.

Democratic National Chairman Fred R. Harris also sought comfort in the nation's only congressional race, New Jersey's 8th District, where Democrat Robert Roe was an apparent winner over Republican Eugene Boyle Jr. in a very close race.

Harris dismissed the losses of Virginia and New Jersey as reflections of state, not national issues. Democratic candidates, he noted, have now won five of the six midterm congressional elections this year, which gives Mr. Nixon "the worst record a President has had in

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Police Disperse 300 Pickets Protesting MIT War Research

CAMBRIDGE, Mass. (AP)—Squads of police, swinging night sticks, drove about 300 antiwar protesters away from a Massachusetts Institute of Technology research laboratory Wednesday.

The police marched in after some of the demonstrators had forcibly prevented research workers from entering the [illegible] laboratory.

One person, an MIT student identified as Allan Fuchs, 19, of Brooklyn, N.Y., was arrested and charged with disturbing the peace and unlawful assembly. He was released on $1,000 bail.

Ten persons were treated for minor injuries. An MIT spokesman said seven of them were not MIT students.

The disturbance took place at Laboratory Five, where researchers are working on the guidance system for the Poseidon missile-MIRV—which is one of the targets of the demonstrators who demand that MIT get out of any war-related research.

Retreat Allowed by Police

Police allowed the demonstrators, led by the November Action Coalition, to retreat slowly down the open end of the narrow street fronting on the one-story laboratory.

Cambridge City Solicitor Philip Cronin and a police lieutenant were knocked down in scuffles, and three newsmen said they were knocked down or struck by police clubs. None of the five reported injury. A steady rain made footing slippery.

It was Cronin, after seeing several laboratory employes thrown aside and prevented from entering the laboratory, who conferred with Mayor Walter J. Sullivan and then called police from their marshalling points.

MIT said the university-owned laboratory is on a public way two blocks from the main campus, and that the decision to call police was made by civil authorities, not the school.

The NAC protesters, including in their ranks members of Students for a Democratic Society, regrouped later at their temporary headquarters in the student center and

Southland Gets Rain as Storms Approach

BY DICK MAIN

Times Staff Writer

Clouds and scattered light rain from an errant weather front moved over parts of Southern California Wednesday as the first of two storms expected here within a four-day period advanced from the northwest.

Dave Burt, U.S. Weather Bureau district forecaster, said the southern edge of the first storm extended from Paso Robles to Fresno Wednesday night.

It is expected to pass through the Los Angeles area early today and could bring as much as .25 inch of rain in the foothill areas, Burt said.

The second storm, centered Wednesday in the Gulf of Alaska, is moving toward the southeast and appears to be stronger than today's

Presidential Campaign Tests Ailing Dominican Democracy

BY FRANCIS B. KENT

Times Staff Writer

SANTO DOMINGO—After the de... Balaguer, half a dozen hats are al...

Shepard Convicted on Bribery Charge

Ex-Councilman Held Guilty of Taking $11,000

BY RON EINSTOSS

Times Staff Writer

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The same jury acquitted the 47-year-old defendant of a second count of bribery and reported to the court that it could not reach a verdict on a third.

Shepard, who did not seek reelection this year and now is engaged in the import-export business, faces sentencing on Dec. 4 if he is not granted a new trial by Superior Judge Pearce Young.

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BY WILLIAM CHAPMAN

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CHICAGO—Black Panther leader Bobby G. Seale was held in contempt of court Wednesday and sentenced to four years in prison for repeatedly interrupting the Conspiracy Eight trial.

U.S. Dist. Judge Julius J. Hoffman handed down the sentence after declaring that Seale's courtroom behavior after several weeks amounted to "deliberate and willful attack on the administration of justice" in the trial.

Hoffman charged that Seale's interruptions were "for the purpose of causing such disorder as would prevent a verdict in the case."

Seale, 32, was led from the courtroom still insisting that he should be allowed to defend himself. His supporters on the spectator benches shouted "Right on!" in encouragement.

The judge also declared a mistrial in the conspiracy case against Seale, but ruled that the cases against seven other defendants would continue.

He announced that a new conspiracy trial for Seale alone would begin April 23. The judge's finding that Seale is in contempt of court almost certainly will be appealed.

The rulings have the effect of removing Seale from the courtroom and presumably permitting the trial to continue without running into the constitutional problem of trying a man who cannot be present in court.

Given a chance to speak against the contempt findings, Seale compared Hoffman's ruling to legal actions of slavery days.

"You have bing black people all your lives," he shouted. He also called the trial a "Fascist operation." Seale repeatedly has demanded the right to defend himself in court because his preferred attorney,

Please Turn to Page 21, Col. 1

JOBLESS FATHER FREED

Razor Blade-in-Apple Story Was False, Six Girls Confess

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6 NOV 6



DRAWS PRISON TERM—Thomas D. Shepard, former city councilman, just after being sentenced to prison on bribery conviction.
Times photo by George R. 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 Phill 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. 5.

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, 1968, 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 $16,700 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-Big 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. 15, 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.

Vetoed by Yorty

After the City Council voted to approve the rezoning, the matter was vetoed 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 vetoing 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 rezone, 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."

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Exhibit 5

PROGRAM TO IMPROVE PLANNING AND ZONING IN LOS ANGELES

FINAL REPORT

CITIZENS COMMITTEE ON ZONING PRACTICES AND PROCEDURES

FINAL REPORT TO THE MAYOR AND CITY COUNCIL

LOS ANGELES, CALIFORNIA/MAY 1969

MAYOR
Sam Yorty

CITY COUNCIL

First District	Louis R. Nowell
Second District	James B. Potter, Jr.
Third District	Thomas Devshepard
Fourth District	John Ferraro
Fifth District	Edmund D. Edelman
Sixth District	L. E. Timberlake, Council President
Seventh District	Ernani Bernardi
Eighth District	Billy G. Mills
Ninth District	Gilbert W. Lindsay
Tenth District	Thomas Bradley
Eleventh District	Marvin Braude
Twelfth District	Robert M. Wilkinson
Thirteenth District	Paul H. Lamport
Fourteenth District	Arthur K. Snyder
Fifteenth District	John S. Gibson, Jr.

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 Ostengaard, Chairman

John C. Bollens

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

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Executive Secretary, Town Hall, 1935-1941.
Instructor in Planning, University of Southern California, 1956-1969
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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 unequivocably 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 soley 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 exclusvely 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) (o) 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

[1]Recommendation 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. 95½.~~

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.

\# (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.

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 retionale 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 by 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. 97.1. 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: 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 Commssion 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

Reference to specific plans is added here in recognition of this new terminology and the Planning Commssion's responsibilty 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 prrovsions.

(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 authorizaton 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.

[2]California 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 ~~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.

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 recommendtion 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 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.~~

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, ..."[3]

\# (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, commertial, 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

[3]California 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 provisions[1] 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.

[1]Municipal Code, Section 12.21A2.

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~~

~~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 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.~~

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 99¼.

\# 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.

\# (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.**

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 jusisdiction.

(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 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.

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. 99¼.~~

(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).

#: ~~Three 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. 99½. 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 98½, 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.