CITIZENS LEAGUE REPORT

No. 117

Recommendations on the Proposed City of Minneapolis Zoning Ordinance

September 1960

(117)

Citizens League
545 Mobil Oil Building
Minneapolis 2, Minnesota

APPROVED BY
BOARD OF DIRECTORS
CITIZENS LEAGUE,
October 5, 1960

September 22, 1960

TO: Planning and Zoning Committee

FROM: Zoning Ordinance Subcommittee, Leavitt Barker, chairman

SUBJECT: Report and recommendations on proposed Minneapolis zoning ordinance.

In September 1959 the League's Board of Directors requested the Planning and Zoning Committee to review the proposed new zoning ordinance then being prepared by the Minneapolis Planning Commission, and report its recommendations to the League's Board. The Zoning Ordinance Subcommittee was appointed by the Planning and Zoning Committee to carry out this assignment.

RECOMMENDATIONS:

A modern zoning ordinance is a complex measure, affecting many facets of community life. To appraise its detailed effects requires much experience and knowledge in many specialized fields, such as construction, building ownership and management, manufacturing, retailing, architecture, and law. Even with these skills it is impossible to foresee all the ramifications of such an ordinance.

Recognizing these facts, and that its own membership did not possess the many specialized fields of knowledge necessary to make a technical appraisal of the ordinance, the subcommittee weighed the proposed ordinance in the light of these basic interrelated questions:

1. Are the proposal's principles sound?

2. Can it be expected to make a more substantial contribution to the physical and economic development of Minneapolis and the welfare of its citizens than the existing ordinance?

3. Can it make this contribution without undue disturbance of existing property rights?

After careful study, reflected in the detailed report that follows, the subcommittee concludes that the answer to all three questions is affirmative. The subcommittee therefore recommends that the Citizens League support adoption of the proposed ordinance by the City Council.

The subcommittee also recognizes from the history of zoning ordinance in Minneapolis and other cities that time is a factor in the adoption of such an ordinance. Since zoning ordinances have so many ramifications, it is perhaps easy to continue to find points of honest disagreement even after long effort to negotiate and settle them. While we would not minimize the desirability of settling all such disagreements, we recognize that they can prolong discussion and continual refinement to the point where the whole ordinance is put in danger of expiring.

In view of our conviction that the ordinance has received long and careful scrutiny and exposure to affected groups and the public at large, that the Planning Commission has carefully reviewed it at various steps in the long process of preparation and revision and has made every reasonable effort to resolve differences without surrendering basic principles, we believe that such a fate for the proposed ordinance would be most unfortunate. Our belief in this is fortified by our conclusion that the proposed ordinance can be amended readily, should it be necessary.

We therefore urge that, once the proposed ordinance is delivered to the City Council, the Council lose no time in reviewing the ordinance and bringing it to a vote.

The text of this report consists of the following sections:

1. Subcommittee procedure.

2. The nature of zoning.

3. The existing zoning ordinance.

4. Evolution of the proposed ordinance.

5. Comparison of general principles and features of the 1924 ordinance and the proposed ordinance.

6. Application of the ordinance text: the map.

7. Summary of reasons for supporting adoption of the proposed zoning ordinance.

Subcommittee procedure

The Planning Commission has formulated and revised the proposed zoning ordinance in two general phases: preparation of the text of the ordinance, and drawing of the map which represents the application of the ordinance provisions to the City. The ordinance consists of both the text, containing over 200 pages, and the map.

The Planning Commission chose this procedure in order to focus the public's attention first on the principles of the ordinance, and attempt to get agreement on the principles, and then show how the ordinance would be applied to every foot of ground within the City.

The text was made available to the subcommittee in October 1959 and the map was made available in September 1960.

The subcommittee began its work in November 1959. While all members were expected to study the whole ordinance, it was agreed that each subcommittee member should undertake to give particular attention to one of the three major divisions: residential, business, or industrial. In the subsequent discussions, a few members having the specific assignment under consideration presented written memoranda of questions on specific sections of the ordinance.

The subcommittee spent the first several meetings discussing the proposed ordinance provision by provision. This discussion produced a list of general and specific questions nine pages in length which was submitted to the Planning Commission for answers. The subcommittee met with the Planning Director and staff for answers to the general questions and later received answers to the remaining questions, the subcommittee either was satisfied that revisions would be made in the ordinance to meet objections, or that the staff's explanations were reasonable. In a minority of cases one or more members of the subcommittee still had disagreement with specific provisions as written.

In May, after nine meetings, the subcommittee voted endorsement of the permissive type of zoning ordinance, and endorsed several specific features which it considered improvements over the existing ordinance; off-street parking provisions, floor area ratio type of bulk control, and performance standards.

At this point, the subcommittee deferred any further action on the ordinance until the map, an integral part of the ordinance, was available. In September, the subcommittee met with the Planning Commission staff for the purpose of viewing the map. The subcommittee viewed the map, had an explanation of it by the planning staff, and discussed its general theory and effects.

In all, the subcommittee held 11 meetings.

The nature and purpose of zoning

A political scientist recently described zoning and its purpose as follows:(1)

> Zoning is the division of a community into zones or districts according to present and potential use of properties for the purpose of controlling and directing the use and development of those properties. It is concerned

(1) Webster, Donald H., Urban Planning and Municipal Public Policy, 1958.

primarily with the use of land and buildings, the height and bulk of buildings, the proportion of a lot which buildings may cover, and the density of population of a given area. . .

The division of the community into zones is necessary in order to provide special regulations for different sections of the community in accordance with the planned development of each particular section. . .

Zoning attempts to group together those uses which are most compatible. Zoning has among its purposes: (1) conserving the value of property, (2) assuring orderly community growth, and (3) safeguarding the general public welfare. It seeks to preserve the planned character of the neighborhood by excluding uses and structures which are prejudicial to the restricted purposes of the area and to achieve the gradual elimination of existing nonconforming uses. At the same time, zoning legislation is designed to protect the owners of nonconforming property from unreasonable hardship occasioned by the compulsory elimination of nonconforming uses. . .

The existing zoning ordinance

The present zoning ordinance as adopted by the Minneapolis City Council in 1924. It was one of the first zoning ordinances in effect in the United States.

Since 1924 there have been many changes in living conditions in Minneapolis and in the methods of merchandising, production, and transportation.

That efforts have been made to adjust the 1924 zoning ordinance to changing conditions is evident from the fact that it has been amended over 850 times. That these amendments have resulted in a patchwork ordinance insufficient to meet these changes successfully is evidenced by the facts that:

(1) The City Council has found it necessary to impose 90 "hold orders" covering about 30% of the area of the City. These are actions of the Council prohibiting, without special authorization, use of the land for purposes authorized by the zoning ordinance. The Citizens League is on record criticizing these hold orders and urging their abolition as soon as proper zoning can be achieved.

(2) There has been a number of effort, so far unsuccessful, to draft and adopt a new ordinance. The last such effort occurred in 1956, just prior to rejuvenation of the planning function in Minneapolis.

Specific reasons for the subcommittee's opinion that the 1924 zoning ordinance is in need of replacement are given below in the comparison of the principal features of the 1924 and proposed ordinance.

Evolution of the proposed ordinance

A major reason for rejuvenating the Minneapolis Planning Commission in 1956 was the recognition that the City's zoning ordinance was in need of improvement. This was precipitated by the Federal government's informing the City that it must make this improvement if it were to continue to qualify for Federal matching funds for urban renewal projects.

It was therefore inevitable that one of the high priority projects the rejuvenated Planning Commission should undertake was the preparation of a proposed new zoning ordinance.

The first full year of the renewed Planning Commission was 1958, when the City Council increased its budget from $83,000 in 1957 to $191,000. Soon after the new planning director and expanded staff were hired, they organized for the drafting of a new zoning ordinance. Perhaps the first real public exposure to the zoning ordinance preparation was a "zoning workshop" called by the Planning Commission in November 1958. The purpose of the workshop was to arouse the interest of the business community and the public in the meaning and importance of zoning, and to lay the foundation for the long process of community involvement in the actual preparation, revision and adoption of a new ordinance. To accomplish this, the commission had the services of experts in various phases of zoning and city planning from all over the country.

In January 1959 the Planning Commission entered into a contract with George H. Krnanenberg and Carl Gardner and Associates, planning and zoning consultants, for the preparation of the detailed text of a zoning ordinance.

In his recommendation for the hiring of the consultants the Planning Director outlined a suggested procedure for publicizing the ordinance when drafted, discussing it with business, industrial, neighborhood and other groups, and bringing it to completion:

> It would then be your director's recommendation that after some Commission review of the detailed text, the Commission enlist the advice of certain special technical committees who might be concerned with major portions of the ordinance and consult with these committees. After such consultation the Commission would then have a series of meetings for explanation of the text to interested neighborhood and professional groups. The Commission would then give further consideration to suggestions made as result of these meetings and the final text form would be prepared.
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> With the accepted text in hand, the staff would then be instructed to hold a series of meetings in different districts throughout the city to secure suggestions as to how the text should be applied to a zoning map. After considering these suggestions, the Commission would then authorize the preparation of a zoning map. This map, together with the text, would then comprise the entire zoning ordinance, which could then be recommended to the City Council.

It is the subcommittee's observation that the Planning Commission be adhered to this general procedure.

In our opinion the Commission has done all that could be reasonably expected of it in making copies of the text available to interested and affected groups, meeting with them to discuss points of misunderstanding or disagreement, and seeking to reach a mutually agreeable compromise. We base this opinion on our own experience in studying the ordinance, discussing it with the commission staff, and attending special meetings called by the Commission for the purpose of explaining and discussing special features of the ordinance (such as sign controls and off-street parking).

Moreover, we believe it is significant that the original timetable called for the Commission's reaching this point (public hearings by the Commission) in its zoning task by February 15, 1960. An appreciable share of the six months prolongation was no doubt due to special efforts of the Commission to reach agreement on disputed points with various interested groups.

Finally, we are told by the Commission staff that in the past several months, they have exposed the zoning map to over 7,000 people in the neighborhoods of the City.

The commission recently estimated that the City has invested as much as $150,000 in the preparation of the new zoning ordinance to date.

Comparison of the general principles and features of the 1924 ordinance and the proposed ordinance.

As indicated at the outset, the subcommittee felt that its appraisal of the proposed ordinance would have to be on the basis of general principles and major features, rather than on the basis of detailed review of technical details, requiring special occupational knowledge as well as detailed knowledge of all parts of the City. The following is a comparison of the present and proposed ordinances in regard to general principles and features.

PRESENT ORDINANCE	PROPOSED ORDINANCE
General type	
Restrictive Ordinance: Residential, multiple dwelling and limited business district regulations prescribe what is permitted within those districts, whereas commercial and industrial district regulations prescribe what is prohibited. Effects: (1) Higher use of land is permitted in an area of lower use. For example, residences are permitted in industrial zones, or on ground floors of business districts. (2) Creates uncertainty as to what a property owner can do and tends to place the decision in the hands of an administrative official (Building Inspector). (3) When it is clear that a business or industry is not prohibited, it can come into the business or industrial zone, regardless of the character of activity, and whether such activity was known at time of adoption of the ordinance.	Permissive ordinance: Ordinance, specifies what use may be made of the land in every type of district, assuring that the City Council, with Planning Commission's advice, will have authority to review proposed new uses that can not now be anticipated and allow (by ordinance amendment) or disallow them. This gives the City government the initiative in controlling development of the City, subject to safeguards through variances, conditional uses and authority to amend the ordinance. At the same time it minimizes the property owner's uncertainty as to what he can do with his land, and minimizes his dependence on administrative determination. Cities adopting new zoning ordinances in recent years have adopted this type, including Chicago and Denver.

PRESENT ORDINANCE	PROPOSED ORDINANCE
Building Bulk Control	
Through detailed, rigid height and density regulations. Height and density zones are plotted on separate maps from the basic zoning map (residential, business, commercial, industrial) making it necessary to consult three separate maps to determine exact regulations.	Except for highest use residential districts building bulk is regulated by floor area ratio (FAR): the ratio of the total areas of all floors in the building to the area of the lot on which it is placed. FAR describes building "density" directly and provides best way of comparing the "load on the land". Also gives designer more choice in locating buildings on the lot, in determination of height. One map gives all required information.
Yard regulations	
Provides only for front yards. Side and rear yards controlled by a separate document, housing code, which applies uniformly to the whole city.	Provides for front, rear and side yard regulations in the one ordinance. Regulations are varied among the different districts.
Off-street parking and off-street loading	
Basic ordinance applied requirements only to a single district. 1959 amendment applying off-street regulations to all districts was a stopgap devide.	Off-street parking and, where needed, off-street loading applied to all uses in all districts.
Sign and billboard controls	
Applied only to residential sections.	Applied to all districts according to the character of the environs.
Performance standards for controlling location of industrial plants	
Not used. Industries are classified by name into "light" or "heavy", with no recognition given to those that are good neighbors.	Industrial location controlled by degree to which it meets objective standards of safety (fire and explosives), health (poor and toxic and noxious matter), comfort (glare and heat), noise and cleanliness (smoke and particulate matter). Premiums given plants that take advantage of technological advances in industrial nuisance control.
Residential districts	
Restricts variety of structures. No "pure" single-family zones. No floor space requirements.	6 kinds of residential zones. Many more types of structures permitted, including pure single-family zones. Minimum floor area rules for all dwellings.

PRESENT ORDINANCE	PROPOSED ORDINANCE
Business districts	
All commercial activities lumped into just two kinds of zones. Dead spots in business districts caused by ground floor dwellings.	12 kinds of business zones, based on shopping center compatibility. No dead spots in business districts.
Manufacturing districts	
Light and heavy industrial districts, with specific industries either named or requiring special Council permit. Manufacturers of like products similarly regulated regardless of differences in nuisances they cause.	Three manufacturing zones, based on performance standards scaled to the production of nuisances.
Administration and enforcement	
a. Organization	
Building Inspector responsible for seeing that property is being used according to zoning and for issuing certificates of occupancy for non-conforming uses.	Building Inspector responsible for seeing that property is being used according to zoning, and in addition has specific duties: (1) issuance of zoning certificates, (2) issuance of certificates of occupancy, (3) maintenance of public information bureau, (4) periodic review of working of zoning ordinance.
Planning Commission acts as Board of Adjustment to hear appeals from decisions of Building Inspector and grant variances.	Planning Commission acts as Board of Adjustment (by state law) to hear appeals, and grant variances (subject to standards), hears application for conditional use permits and make recommendation thereon to City Council. Hears applications for amendments.
b. Zoning certificate	
Not required.	Every City permit for the use of land or buildings must carry a zoning certificate from Building Inspector indicating that structure or use complies with the ordinance.
c. Occupancy permit	
Required only for non-conforming uses existing at time of ordinance's adoption.	Required of all buildings erected after ordinance's adoption, or added to, or all

PRESENT ORDINANCE	PROPOSED ORDINANCE
	c. Occupancy permit (cont'd)
	vacant land used, or all changes in use of land or buildings. Issued by Building Inspector after checking compliance with ordinance. Required also of all uses nonconforming at adoption of ordinance.
	d. Variances
Board of Adjustment advises Council on granting or withholding variance.	Board of Adjustment decides on granting or withholding variance, but must observe specific standards, and is limited to three basic variations and six minor variations.
	e. Conditional uses
Application made to Planning Commission. Commission notifies by post card all owners within 100 feet of affected land. Commission holds hearings, makes recommendation to Council. Council by 3/4 vote may grant conditional use permit.	Application made to Building Inspector, who may prescribe data and plans to accompany. Board of Adjustment (Planning Commission)holds hearings, notifying by post card all owners within 100 feet of affected land. Makes recommendations to Council. Council may grant or deny by simple majority, provided that upon certain written protest of ajoining property owners, favorable vote requires 3/4 vote of all aldermen.
No standards to guideCommission in making its recommendations.	Standards to guide Commission in making its recommendations.
Authorized conditional uses are not carefully related to the various districts.	Authorized conditional uses carefully related to various districts.
	f. Amendments to ordinance
By Council. No specific provisions.	Amendment applications must be made to Zoning Administrator. Public hearing held by Commission, after due notice. Commission transmits findings of fact and recommendations to Council committee. Ordinance specifies matters on which facts must be indicated. Council acts on recommendation of its committee.
	g. Periodic review
No provision.	Building Inspector required to make report and recommendations to Commission at least once a year.

PRESENT ORDINANCE	PROPOSED ORDINANCE
	g. Periodic review (cont'd)
	Planning Commission must at least every five years report to Council its evaluation ofeffectiveness of Zoning Ordinance, and may include recommendations for alterations and amendments.

Application of the ordinance text: the map.

While the provisions of the zoning ordinance describe how different kinds of property are to be regulated, the application of those provisions in the last analysis is made by the drawing of the zoning map. This map allocates every square foot of the City to one of the residential, business or manufacturing zones. It determines the specific application of the zoning regulations: permitted uses, transitional uses, conditional uses, lot size requirements, yard requirements, building bulk limitations, signs, off-street parking, off-street loading.

As already indicated, the Planning Commission was anxious to get as much agreement as possible on the principles and general provisions of the zoning text before translating them into specific applications. It therefore scheduled the map-drawing and revision to the last stage of ordinance preparation.

Prior to drafting the maps, the Planning Commission approved a policy guide for preparation and use of zoning maps. It set forth principles to be used in preparing and revising the zoning map, described the assumptions on which the current revisions of the zoning map are being based, and discussed the intended relationship between the zoning map and the land use plan.

Basic conclusions and assumptions it stated were:

A. So far as possible, Minneapolis should have a balanced zoning map; one which allows room for desirable growth and change but yet gives maximum protection to sound, existing development.

B. In order to achieve a continuously belanced zoning map, it will be necessary to periodically revise the map in the light of continuing land use, economic and related planning studies. It is assumed that such revisions will be possible and forthcoming.

C. The land use plan -- and not the zoning ordinance -- should become the accepted guide to the long-term land use objectives of the City.

D. In view of the existing status of the planning program and on the basis of the assumptions given above, it is concluded that the zoning map now to be prepared should primarily reflect the existing land use pattern.

E. Certain principles (set forth in the guide) should be used in relating the existing land use pattern to a new zoning map.

It is the subcommittee's conclusion, after reviewing the map, discussing the procedure of map preparation with the staff, and comparing the map with existing land use maps, that the Planning Commission has carried out its intent of primarily reflecting the existing land use pattern.

The planning staff indicates that only one category of existing land use is found to be non-conforming under the proposed map, and this is use of land for multiple dwellings which are already in violation of our existing ordinance. In other words, these are housing units that have been illegally converted to multiple dwellings and are therefore already non-conforming.

It is the further opinion of the subcommittee that while the map does primarily reflect the existing land use pattern, the policies set forth by the Planning Commission for gradually changing the land use pattern will, if carried out, over a period of time accomplish the substantial improvements sought by the ordinance. Among these policies are:

(1) Continued detailed planning studies of the City's nine basic communities, and gradual amendment of the zoning map to accomodate the community detailed plans resulting from these studies.

(2) Specific map revision in the areas where substantial public programs of renewal are contemplated, as in Glenwood and the Lower Loop.

(3) Change of existing zoning where the existing land use (rather than zoning) is different from the zoning and in conformity with better land use. Example of this are the main arteries, such as Cedar Avenue, which under the existing ordinance are zoned commercial along their entire length ("strip" zoning). Many of the lots along commercially-zoned arteries are actually being used for residential purposes, in conformity with better land use practices. The proposed map has included these as residential areas.

Summary of reasons for supporting adoption of the proposed zoning ordinance

1. It has greater potential than the existing ordinance for meeting the objective of improving land use for enhancement of the health, safety, comfort and convenience of all the people in the City.

2. The "permissive" type control over business and manufacturing land use gives the property owner more certainty in use of his land, and enables the City to control development, a control which seems essential in an urban center of intensive land use. At the same time, the extensive listing of permitted commercial uses, the use of performance standards for industrial land control, the provision for variances and conditional uses (subject to standards), and the possibility of ordinance amendment, guard against arbitrary and unnecessarily restrictive control of development.

3. The provision requiring the Planning Commission to make periodic review of the way the ordinance is working and thereupon to suggest ordinance amendments to the Council assures a procedure for keeping the ordinance abreast of changing conditions.

4. The facts that the application of the ordinance is based on the principle of primarily reflecting the existing land use pattern, and that the ordinance places no termination date on non-conforming uses, indicates the Commission is proceeding on a policy of gradualness.

5. The deliberate, well-publicized method in which the Commission and staff have proceeded, their use of experienced consultants, their constant efforts to meet all groups and individuals and discuss provisions of the proposed ordinance, and the generally impressive competence of the professional staff and the time and effort they have expended to produce the ordinance, give basic assurance that the ordinance reflects the public's views and the incorporation of sound zoning principles.

6. Adoption of the ordinance is the soundest way to get rid of 90-some hold orders, a device which is probably illegal, subjects landowners to possible arbitrary decisions, and gives them a false sense of security in use of their land.