

The Lay of the Land:
A National Survey of
Zoning Reform

September, 1999

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*25 East Washington Street
Suite 1600*

Chicago, Illinois 60602

Phone: 312.922.5616

Fax: 312.922.5619

E-mail: info@metroplanning.org

Web: www.metroplanning.org

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A National Survey of
Zoning Reform

September, 1999

*Research conducted for the City of Chicago
Department of Planning and Development
Christopher Hill, Commissioner*

*Written by Peter Skosey and Christina Sellis
Metropolitan Planning Council
25 East Washington, Suite 1600
Chicago, IL 60602
(312) 922-5616*

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STATISTICAL SUMMARY

As of 9/13/1999:

The 50 largest U.S. cities have been contacted.

22 have undertaken major zoning reform in the past five years.

Of these, three classify this reform as a recodification or restructuring of the code, with some minor substantive changes.

19 classify this reform as a complete rewriting of the ordinance.

This report includes information about eleven cities and their zoning reform processes.

Highlighted Cities

1. New York City has not rewritten their zoning in recent years, but its code amendment procedure is long and public.
2. Pittsburgh completed a 5-year zoning rewrite process in August of 1998.
3. Milwaukee is over a year into the process of rewriting its ordinance.
4. Boston is nearing the end of a 10-year process of rewriting its ordinance.
5. Seattle completed a 15-year zoning rewrite process in 1995.

Other Cities

6. San Diego is completing a 9-year process of rewriting its ordinance.
7. San Jose is completing a two and a half-year process of rewriting its ordinance.
8. Detroit is nearing the end of a two-year process of rewriting its ordinance.
9. Tucson completed a 12-15-year zoning rewrite process in 1995.
10. Minneapolis is finishing up a three-year process of rewriting its ordinance.
11. Honolulu adopted a new ordinance in May 1999. This was basically just a reorganized code.

Summary of Consultants Used

Of the ten cities included in this report, six hired outside consultants. San Diego, Boston, Tucson, and Minneapolis did not hire consultants.

Dyett Bhatia from San Francisco was contracted by Milwaukee, San Jose, and Cincinnati (Cincinnati just began the process of rewriting its zoning; it is not one of the cities detailed in this report).

Clarion Associates from Denver and Duncan Associates in Chicago were both contracted by Pittsburgh and Detroit.

Pittsburgh also used Karen Brean & Associates, a local consultant.

In addition to Dyett Bhatia, Milwaukee also used Lane Kendig out of Mundelein, IL, Jonathan Barnett, and urban design consultant, and Robinson Cole, a law firm from Boston.

Seattle used Gruen & Gruen Associates for the downtown portion of its zoning ordinance.

NEW YORK #1ⁱ

Pop: 7,322,564 Area: 308.9 sq. mi. Density: 23,705 ple/sq. mi.

Spoke to Tom Wargo in the zoning department on 8/15 and 9/1. Phone: (212) 720-3262

Time Frame/History

New York adopted its first zoning ordinance in 1916 and rewrote it in 1961. Since that time, the City has altered large sections of the code in the form of amendments.

The **last attempt at an amendment** which affected the entire city was in 1995, when the City tried to update all its commercial regulations (see below).

The **most recent amendment** was adopted in the spring of 1999, when the City created a special overlay district for Lower Manhattan as part of the Mayor's Revitalization Plan for Lower Manhattan.

As explained in Planning Commission Chairman Rose's speech of 4/20/99 (see Appendix A), there has been recent discussion of restructuring the entire New York City zoning ordinance.

The Process

The process for any zoning change is essentially the same each time.

- A **City environmental review** and **State environmental review** are conducted concurrently. Those processes determine the need for an Environmental Impact Statement.
- If needed, an **EIS is conducted** at this time.
- Once the environmental process is finished, the **application is certified**.
- The application gets referred to the affected **community boards**. (There are 59 communities and community boards; if it's a citywide application, it goes to all 59 boards.) The Borough President appoints the community board members, who are required to either live or work in that community.
- The application also gets sent to the relevant **Borough Presidents**, the **Buildings Department**, the **Environmental Department**, and usually other potentially interested parties like community groups and developers. All of these groups review the application and submit their comments to the department.
- The community boards can hold a **public hearing** to discuss the amendments if so desired.
- If the application affects more than one community, the appropriate Borough President can hold a public hearing if so desired. (The community boards and borough presidents are only advisory bodies. The Planning Commission can overrule them both.)
- The **Planning Commission** reviews the amendment and holds a public hearing.
- The Planning Commission votes on it.
- City Council** has time to review it and hold a hearing.
- Council votes on the application. They can vote yes or no or scale back the proposal, but can't add to it.
- If it affects the zoning map, each entity has a 60-day time limit to review it. There is no time limit if it is a text change, but the city usually tries to use the same schedule.

Obstacles/Barriers

All applications go through this process, no matter how small the change. It can get very lengthy and onerous and, if an EIS is involved, very expensive.

City Council Structure

There are **59 elected Council members** (one from each designated community district). New York used to have a Board of Estimates, on which the Mayor, the five Borough Presidents, and the City Controller all sat. These seven people were the final deciding body after Planning Commission. Although this system was in place for decades, it was deemed unconstitutional because there wasn't equal representation for New York's residents. Now, each of the Council 59 members represents the same amount of people.

Planning Commission Structure

The City Planning Commission includes thirteen members. The Mayor appoints the Chairman and six other members, each Borough President appoints one member, and the Public Advocate appoints one member. The Commission meets regularly to hold hearings and vote on applications concerning the use, development and improvement of real property subject to City regulation.

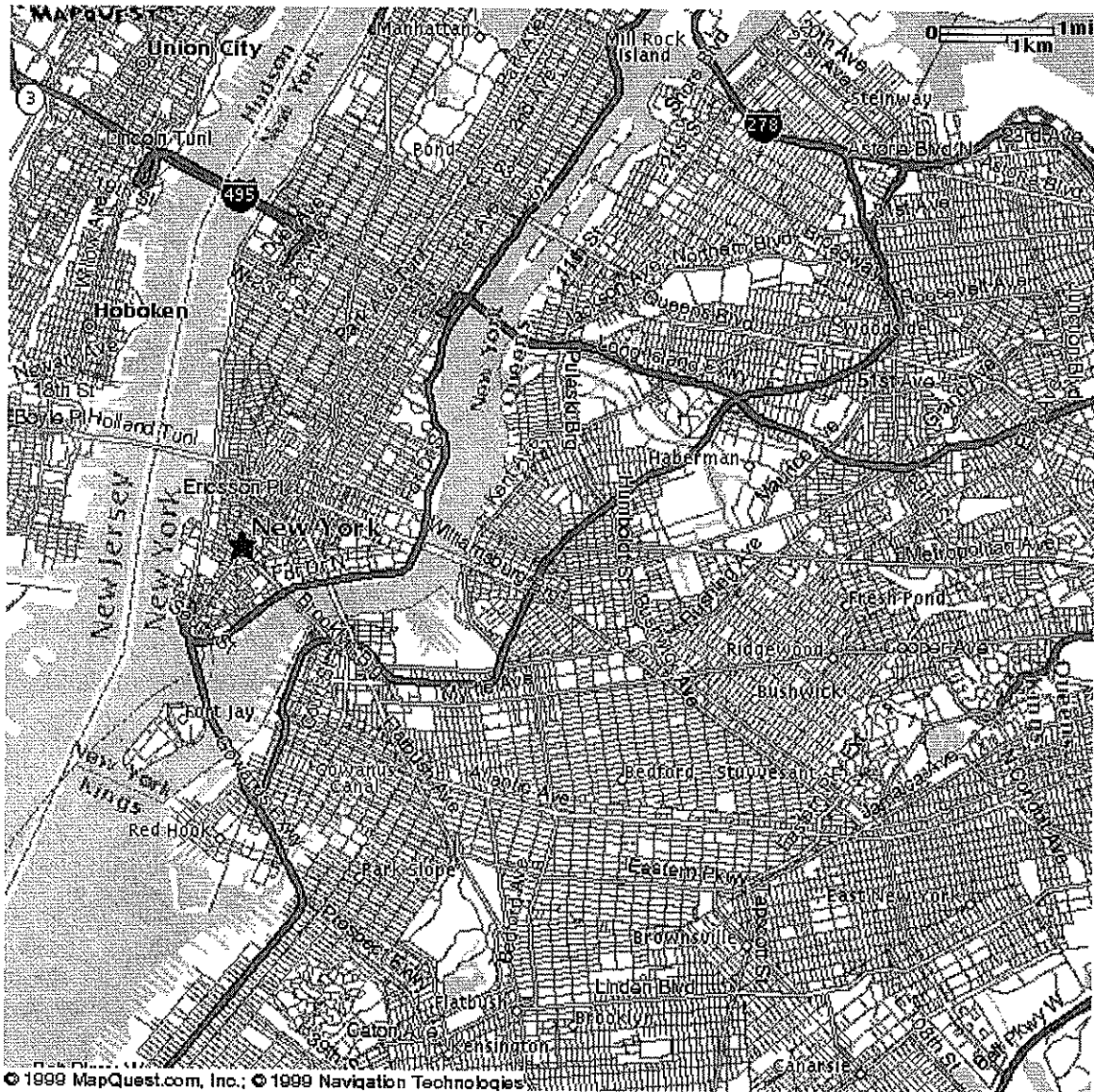
Comprehensive Amendments

The most recent attempt at a citywide amendment was in 1995, when staff tried to update all commercial use regulations.

- ❑ In the 1970's, the city had a lot of vacant land zoned for industry, and the City created regulations to prevent big box retailers from building in those areas. The intent was to ensure future growth of manufacturing industry.
- ❑ This effort failed and manufacturing continued to decline, leaving the city with large tracts of vacant land close to residential and business areas.
- ❑ A special permit allowed for big box in the city, but required the public process described above. Very few stores wanted to go through that; those that tried usually got derailed somewhere along the way.
- ❑ Meanwhile, many big box retail stores were being constructed in suburbs, leading many New Yorkers to drive out of the city to shop at Home Depot and Wal-Mart.
- ❑ City staff proposed to update all commercial use regulations, both because many were outdated and to allow big-box retail without special permitting procedures.
- ❑ Staff faced considerable opposition since they were taking away communities' ability to review development proposals and to oppose or modify plans when they wanted.
- ❑ Staff agreed that citizen concerns about traffic and design issues were legitimate and tried to modify the application to address these.
- ❑ Staff drafted traffic and design requirements for developers, but would still allow developers to build as-of-right.
- ❑ City Council voted down the application; this was the only veto that Tom Wargo can remember. He thinks it was because staff wasn't having good relations with the council, and had been having difficulty reaching a compromise.

Accompanying Materials

- The most recent amendment—the overlay district in Lower Manhattan
- New York City planning department website information (Appendix A):
 - ✓ *Reforming the New York City Zoning Resolution*—New York City Planning Commissioner Chairman Joseph Rose's speech of 4/20/99
 - ✓ *On Zoning*—Overview of Zoning Resolution
 - ✓ Planning Department Overview
 - ✓ New York City Zoning History



PITTSBURGH #40

Pop: 369,879 Area: 55.6 sq. mi. Density: 6,653 ple/sq. mi.

Spoke with: Susan Tymoczko, Senior Zoning Planner, City of Pittsburgh on 8/10 and 9/8. Phone: (412) 255-2470
Karen Brean, Karen Brean Associates on 8/10/99. Phone: (412) 244-3445

Time Frame

A new zoning ordinance was adopted in August of 1998 and took effect six months later. Pittsburgh originally hoped that it would take about two years to rewrite the zoning code, but it took five years. They are now involved in a remapping effort.

The Impetus

The last code was from 1958, and many of the standards for residential development were outdated. Also, there was an abundance of land zoned for industrial uses, and after industries abandoned those sites there wasn't enough flexibility in the code to allow for new uses.

The Process

The City hired local and national consultants. Karen Brean Associates was the local consultant; national consultants included Jim Duncan Associates from Chicago and Austin, Clarion Associates from Denver and Chicago, and some others. Pittsburgh wanted national expertise and a local connection.

- The City planning director held **meetings with neighborhood leaders** to get some ideas and to inform them of the City's efforts.
- The mayor wanted to create an advisory board of about 40-50 people, but a re-election postponed its formation until later.
- The City and the consultant team created a **caucus process**, which consisted of 9 simultaneous monthly meetings of different groups for 18 months. Each group focused on different areas of the code. About 250 people were involved, including developers, builders, institutions, residents, and commercial interests.
- The consultants created **issue papers** for each area of the code which were later used by staff as discussion pieces. The consultants distilled the papers and focused the discussions around key points.
- Pittsburgh used the **League of Women Voters to help organize** and facilitate the meetings and used **graduate students to record** the meetings, creating a huge **grass-roots process** on a shoestring budget.
- At the end of the effort there was a new mayor and a lot of support for this project. The local consultant thinks the grass-roots approach created a lot of support for the project, giving it staying power through the **changing administration**.
- Pittsburgh formed a **zoning advisory group**. Half the members came from the caucus process and the other half were asked by the City to participate, ensuring that all interests and council districts were represented.
- The zoning advisory group met monthly for about two years. The meetings were conducted as **work sessions** where the group edited drafts and made additions.
- When a final draft was complete, the zoning advisory group disbanded and staff started the council process.

- Staff then convened a volunteer **lawyers group** to review details of new code. Even though the consultant team contained lawyers, staff felt they needed local attorneys familiar with the development climate to review the new ordinance.
- Next the new code went to the **Planning Commission and City Council**. Anticipating a lengthy process, staff emphasized **keeping the council members and the planning commission up-to-date on the process** and educating them on the key issues and changes. For about two and a half years, the council members were being prepared for this vote.
- In August of 1998 the code was passed with an effective date of February of 1999, giving everyone some time to familiarize themselves with its requirements.
- That August, the City Council appointed a **Zoning Review Committee** to address some of the outstanding issues they identified.
- The new code went into effect in February of 1999.
- Now, Pittsburgh is beginning a **remapping process**, taking a grass roots, neighborhood approach once again. They do not expect this process to take as long as the text portion.

What was changed?

The whole code was rewritten except for the downtown zoning district, PUDs, and special districts. The downtown zoning had been updated and did not require a rewrite.

City Council Structure

The City Council has nine members, one from each of the nine districts. Each member represents roughly the same number of citizens, and the position is a full-time job.

Obstacles/Political Issues

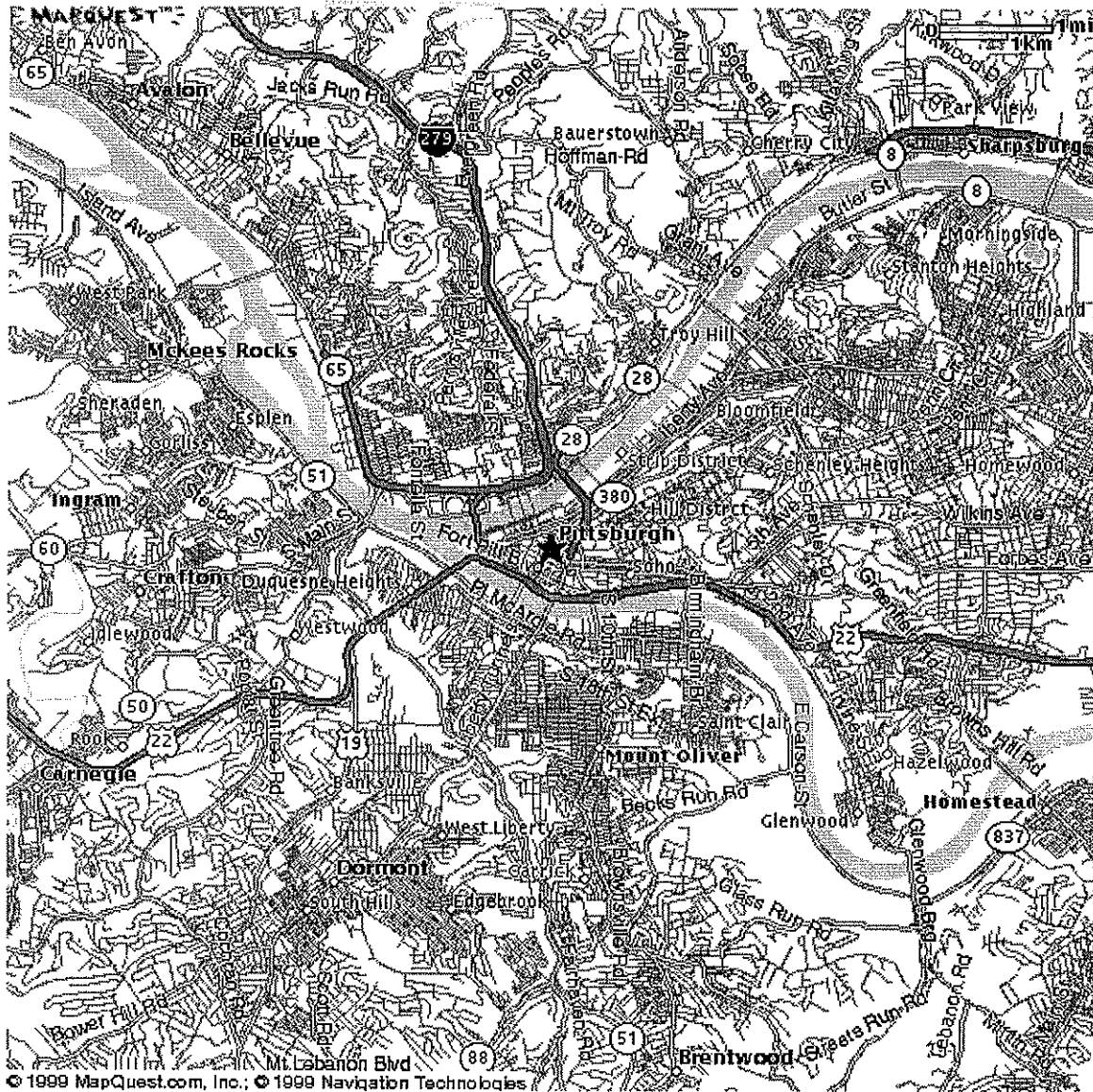
- It was a **very long process**. In the opinion of the local consultant, it seemed to never end; there was always another committee being formed. There were many last minute changes during the final year. Some special interest groups who hadn't been following the process closely, including realtors and developers, opposed the process a little later than staff would have preferred.
- It's important to **keep the Planning Commission and City Council aware** of what is going on every step of the way.
- Pittsburgh is *very* **process-oriented**, which required much patience, but in the end it paid off because there was much less of a fight than there could have been.
- "No matter how much you think you get the word out about what you are doing, there will still be people who show up at the end and say 'I had no idea you were doing this.'"

Reactions/input from the development community

Developers have been opposed to **new design standards** that address design quality in commercial districts. Some of the language is stronger than it has been in the past, especially for new types of development (i.e. big box). Some of the developers are just anti-zoning in general, seeing it as a violation of their property rights. Most of the big developers were involved from the beginning, but you can't please everyone.

Accompanying Materials

City of Pittsburgh Zoning Ordinance



Map of Pittsburgh

MILWAUKEE #17

Pop: 628,088

Area: 96.1 sq.mi. Density: 6,536 ple/sq. mi.

Spoke with: Greg Patin on 8/2, Zoning Development Coordinator of the Milwaukee Development Center. Phone: (414) 286-5460

Brian O'Connell on 9/9, Long Range Planner. Phone: (414) 286-5720

Both are with the Department of City Development, City of Milwaukee.

Time Frame

The City is just over a year into the process of rewriting its code. They hope to be finished sometime in early 2000.

The Process

- The City hired **outside consultants** including Lane Kendig of Mundelein, IL, Dyett Bhatia from the Bay Area, and Boston-based law firm Robinson Cole. The total amount paid to the consultants was \$231,340.00
- The consultants' scope of services spans from the evaluation of the current code to the process of putting the new code on the Internet.
- Planning staff created a task force of the Common Council, the **Zoning Code Task Force**, which included an Alderman as Chairman, a former Board of Zoning Appeals Chairman, the Dean of the School of Architecture for UW—Milwaukee, and a representative from Milwaukee's largest commercial real estate developer. The task force has been reviewing drafts of the new code throughout the process.
- City staff, including permits staff, has devoted a lot of time to the project.

What will change and how much?

About 80% of the text will change and the zoning map will see minor changes. Much of what is being left alone is what has been revised recently and rewritten. Also, the City is **not rewriting the zoning for the central district**, because they are **waiting for the completion of its new downtown plan**. When the downtown plan is completed, they will follow up with revisions for downtown. However, downtown zoning didn't need as much work because it had been revised in recent years. The new ordinance will simplify zoning, combine some districts, and redraw lines that caused confusion. The current code has about 100 districts and sub districts, while the new one will have less than 50.

The Current Code

The current code was written 50 years ago, but has gone through organizational changes, revisions, and recodifications over the years.

Obstacles

The project needed more staff time than anyone expected. The zoning coordinator's advice to any community that plans to attempt this is to make sure a lot of staff time is committed to this project, even if you hire a consultant.

City Council Structure

The Milwaukee City Council consists of 17 aldermen and the Mayor. Each alderman is elected from one of the 17 districts, and represents roughly the same number of citizens. They are elected every four years.

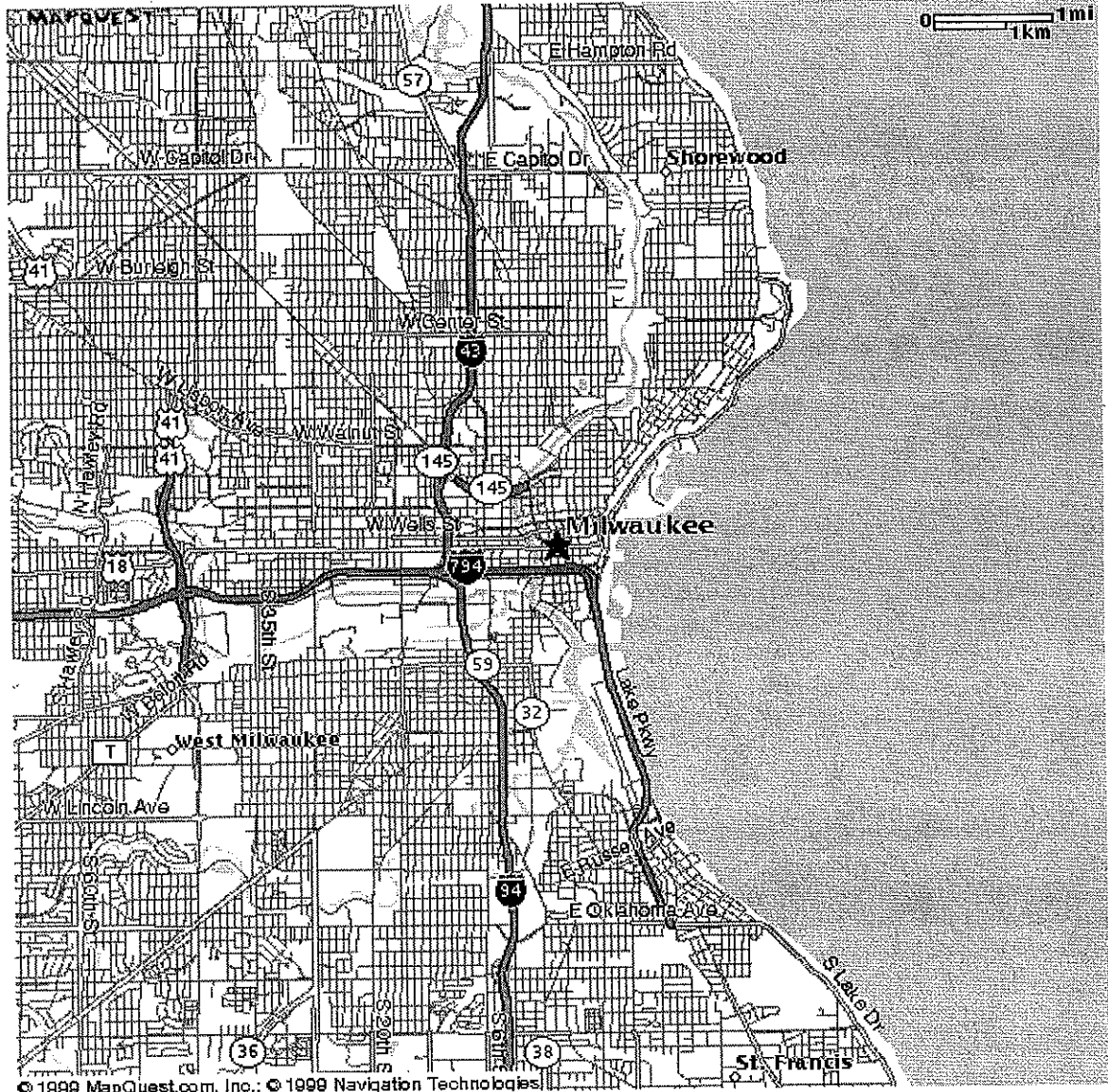
Reactions/input from development community

Staff conducted some outreach efforts to the development community at the beginning of the process. One point they heard over and over was that developers prefer **more predictability in the process** and more **consistency in the implementation** of regulations.

Milwaukee is not at a point to say what the reactions will be from the public, since the new code hasn't been widely released.

Accompanying Materials

- Original consultant contract
- Zoning Code Task Force's Request for Proposals
- Work Program, Project Cost and Project Schedule from Consultant



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Map of Milwaukee

BOSTON #20

Pop: 574,283 Area: 48.4 sq. mi. Density: 11,865 ple/sq.mi.

Spoke with: Jeff Hampton, Zoning Planner on 8/9, and 9/9 Phone: (617) 722-4300.

Hugues Monestime, Senior Planner, on 8/23 Phone: (617) 918-4320.

Both are with the Boston Redevelopment Authority

Time Frame

The City has been in the process of rewriting its zoning ordinance for 10 years. It has taken an incremental approach, creating separate zoning for each neighborhood.

The Impetus

The City wanted to customize zoning for each neighborhood. Each article of the new code will apply only to one neighborhood and not to others.

Also the ordinance had been amended many times and needed reorganization.

The Process

Each neighborhood is going through its own process separately. The zoning for each neighborhood is a separate article of the code, adopted separately as each neighborhood is completed. Each neighborhood has one planner and a **Planning and Zoning Advisory Committee** (PZAC) whose members are appointed by the mayor upon recommendation from the planner for that neighborhood.

There are roughly 15 different neighborhoods; 12 of them have completed their zoning rewrites and three are still in process, including Dorchester (see below).

- In the late 1980s, at the beginning of the City's process, developers were trying to get project approval before the pending zoning reform took effect.
- In reaction to this, the City created an Interim Planning Overlay District (IPOD) for each neighborhood that had begun the rewrite process. With the exception of single-family homes, the City's Department of Inspectional Services was authorized to site all new development, forcing every permit application to go through the appropriate PZAC.
- The PZAC and the City would review the application to determine whether or not it was consistent with the set of objectives that had been put in place for the neighborhood's new zoning.
- The PZAC would then send a recommendation to the Zoning Board of Appeals to deny, defer, or approve the application; the board followed the recommendation 80% of the time.
- An unintended consequence of this added layer of regulation was the heavy burden on each PZAC of reviewing every development application. Review tied up so much time that some neighborhoods took five to six years to rewrite their zoning.
- Neighborhoods that began the process later weren't experiencing any rush of development and decided to undertake zoning reform without using the IPOD.

Dorchester: One neighborhood's process

Dorchester is one of the largest neighborhoods in Boston, with a population of about 80,000. It has been involved in a very detailed process for the past two years.

- The planner for Dorchester identified 26 various civic groups and went to speak to each organization to explain the process of rezoning the neighborhood. He invited them to appoint two representatives to the neighborhood PZAC. **Two volunteers**

from each group agreed to sit on this committee. In addition, some unaffiliated but interested residents and business people were included.

- After speaking to each civic group and potential committee member, the planner for Dorchester recommended a list of names to the mayor. The mayor then added a few of his own people and appointed the whole group as the PZAC for the neighborhood.
- The first nine months of PZAC meetings was spent educating the committee members on the zoning code, how it works, and why it needs to be changed. Then they discussed the various land use and development issues in their neighborhood and began to draft their article of the ordinance. While the input of the committee was taken very seriously and valued highly, **they were purely an advisory body** and the staff was not obligated to follow their requests for the new ordinance.
- The Dorchester PZAC has been meeting once a month for the past two years and expects to have a draft ready by Jan 2000.
- The Dorchester PZAC has a mailing list of about 200 that receive updates about the progress of the committee. About 600 people will receive a copy of the draft, and they will be given 30 days to submit comments to staff.
- After staff receives comments, they will hold two large public hearings to present and explain the draft code to as many residents and business owners in Dorchester as possible.
- Staff will reconvene the PZAC for a few final meetings to make changes according to the input they receive at the public hearings.
- They hope to have a final draft ready to present to City Council in March.

The Old Code

The previous zoning ordinance was written in 1964 and amended many times since then. In the old code, each zoning designation had the same regulations throughout the city, something that will not be the case with the new code. For example, an R4 District in Roxbury will have different regulations than an R4 District in Beacon Hill.

City Council Structure

Boston City Council has 13 members. One is elected from each of the City's nine council districts, and there are four members at-large. The position of City Council member is full-time.

Consultants

The City did not find it necessary to seek outside consultants; instead, the PZAC for each neighborhood provides the expertise needed to rewrite the code. Of course, the PZAC can only meet once a month, so the process is taking longer than it would if they had used a consultant. The Boston Redevelopment Authority also views the zoning rewrite as part of their job.

Political barriers/obstacles

The PZAC for Dorchester is a diverse group representing very different interests. Debate sometimes gets pretty heated, which makes achieving consensus a difficult task at times.

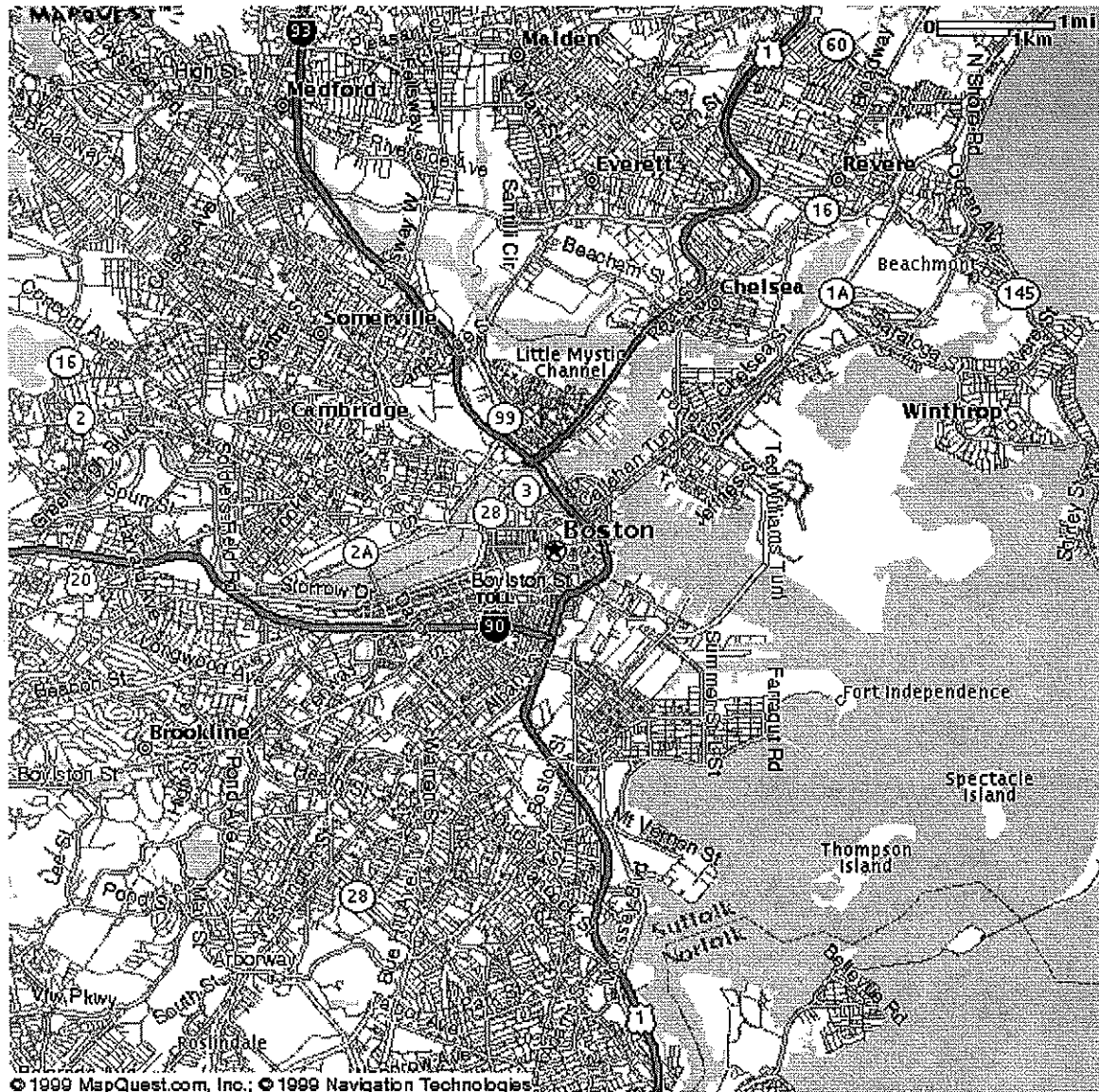
Reactions/input from development community

Some developers, including several large industrial landowners, are afraid that they will be financially affected by the changes. Some have threatened to take the City to court

over the proposed changes. The Senior Planner for Dorchester sees this as a challenge to be more thorough in the process and hopes that it will result in a better product.

Accompanying Materials

Article 50 of the new code, which is the new zoning ordinance for the neighborhood of Roxbury



Map of Boston

SEATTLE #21

Pop: 516,259 Area: 83.9 sq. mi. Density: 6,153 ple/sq. mi.

Spoke with: Diane Sugimura, Director of the City of Seattle Department of Design, Construction and Land Use on 8/9/99. Phone: (206) 233-3882
Mike Larson, City Council staff, on 9/10/99 Phone: (206) 684-8159

Time Frame

Seattle went through a 15-year process of rewriting its zoning ordinance starting in 1980. Additionally, the city just began a two-year process of reorganizing the code for ease of use.

The Impetus

Seattle hired land use attorneys to study the existing code prior to beginning the rewrite process. The attorneys' report documented existing problems and recommended a rewrite. The code was last overhauled in 1963 and not extremely outdated, but the City also wanted to impose more strict regulations on development to curb potentially detrimental rapid growth.

The Process

The City staff approached each zone category separately, and made changes incrementally. They started with single-family residential, then moved to multi-family residential, commercial, industrial, downtown, etc. Then, they worked on an open space policy, which is not a zone category but still applies throughout the city.

- The City staff chose a 15 member **advisory committee** for each section; each met monthly.
- The draft for each section was then presented at public hearings.
- For commercial areas, Seattle advertised **public hearings** in the daily papers, posted maps in supermarkets, and smaller signs on lampposts, encouraging people to get involved.
- **Downtown was the most complex section.** It included zoning bonuses, transferable development rights, and several other aspects of zoning that the other sections of the ordinance don't have. The City hired a consultant, Gruen & Gruen, for the downtown section.

A Note on Public Participation: The city didn't solicit much public input when it rewrote the first section, covering single-family residential. When that section was finished, people started coming out of the woodwork against it. The process for the following sections was opened up to encourage more public participation.

Reactions/input from development community

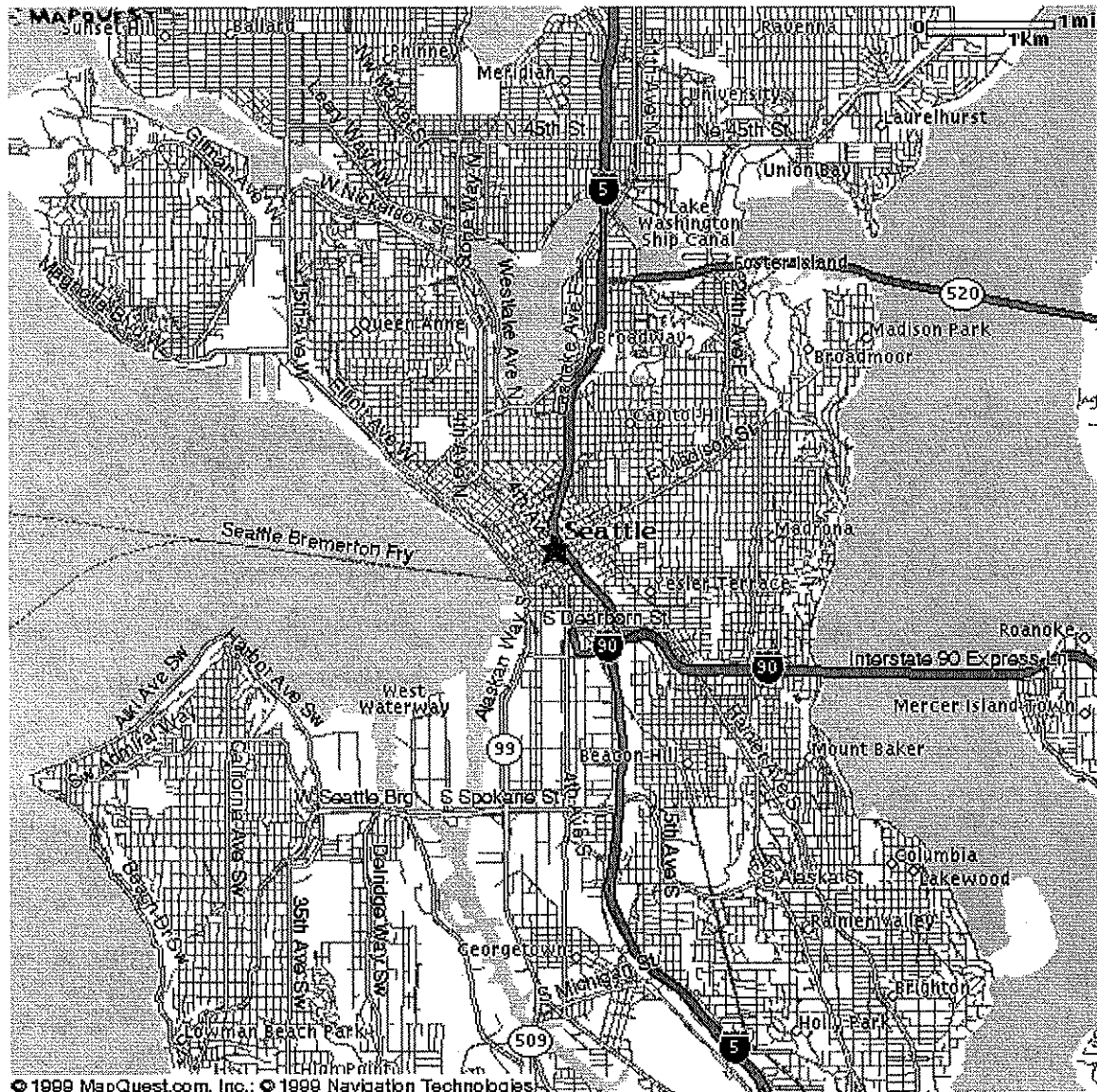
The developers fought the change all along. There was a lot of negotiation about multi-family residential regulations between City Council and developers. The process took place during a development boom, so some changes may have been a little extreme. For example, many areas were downzoned with new height restrictions. Naturally, developers were unhappy with those types of changes.

Council Structure

City Council consists of nine members at-large. This is a full-time position for an unlimited number of four-year terms. Council members earn \$74,000-\$77,000 per year. Council needs five votes to enact an ordinance, and the Mayor then has 10 days to approve or veto. Council can override a mayoral veto with six votes.

Accompanying Materials

- Land Use and Zoning Code
- Land Use Simplification manual
- Design Review Guidelines for Downtown
- Design Review Guidelines for Multi-Family Residential



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Map of Seattle

SAN DIEGO #6

Pop: 1,110,459

Area: 324 sq. mi.

Density: 3,428 ple/sq.mi.

Spoke with Dan Joyce senior planner of land development 8/20/99
Phone: (619) 236-6492

Time Frame

San Diego began rewriting its zoning ordinance in 1991, anticipating completion in 1997. However, given San Diego's location on California's coast, the California State Coastal Commission has added two years to the process by requiring a lengthy State review that is currently nearing completion.

The Process

- ❑ San Diego has 40 different **community planning groups** for the different neighborhoods. These groups held various **public workshops** throughout the whole process.
- ❑ **Workshops were held for the planning commission.**
- ❑ Citywide public notices were posted for all meetings. In addition, some radio and public-access interviews were aired.
- ❑ San Diego established a **zoning advisory committee** of business professionals, design professionals, environmentalists, and land-use lawyers. This group reviewed almost everything that staff created and made recommendations to the planning commission.
- ❑ Staff also brought **recommendations to the planning commission.**
- ❑ Next, the draft went to the **Land Use and Housing Subcommittee of City Council**, which reviewed it.
- ❑ The final body was **City Council.**

In all, there were over 250 public meetings throughout the nine-year process.

What was changed and how much?

Mr. Joyce estimates 25-30% of the content was significantly changed. However, staff conducted a complete overhaul of the ordinance. San Diego went through the entire code, got rid of redundancies, rezoned residential areas, and established many new development regulations, among other changes.

Political barriers/obstacles

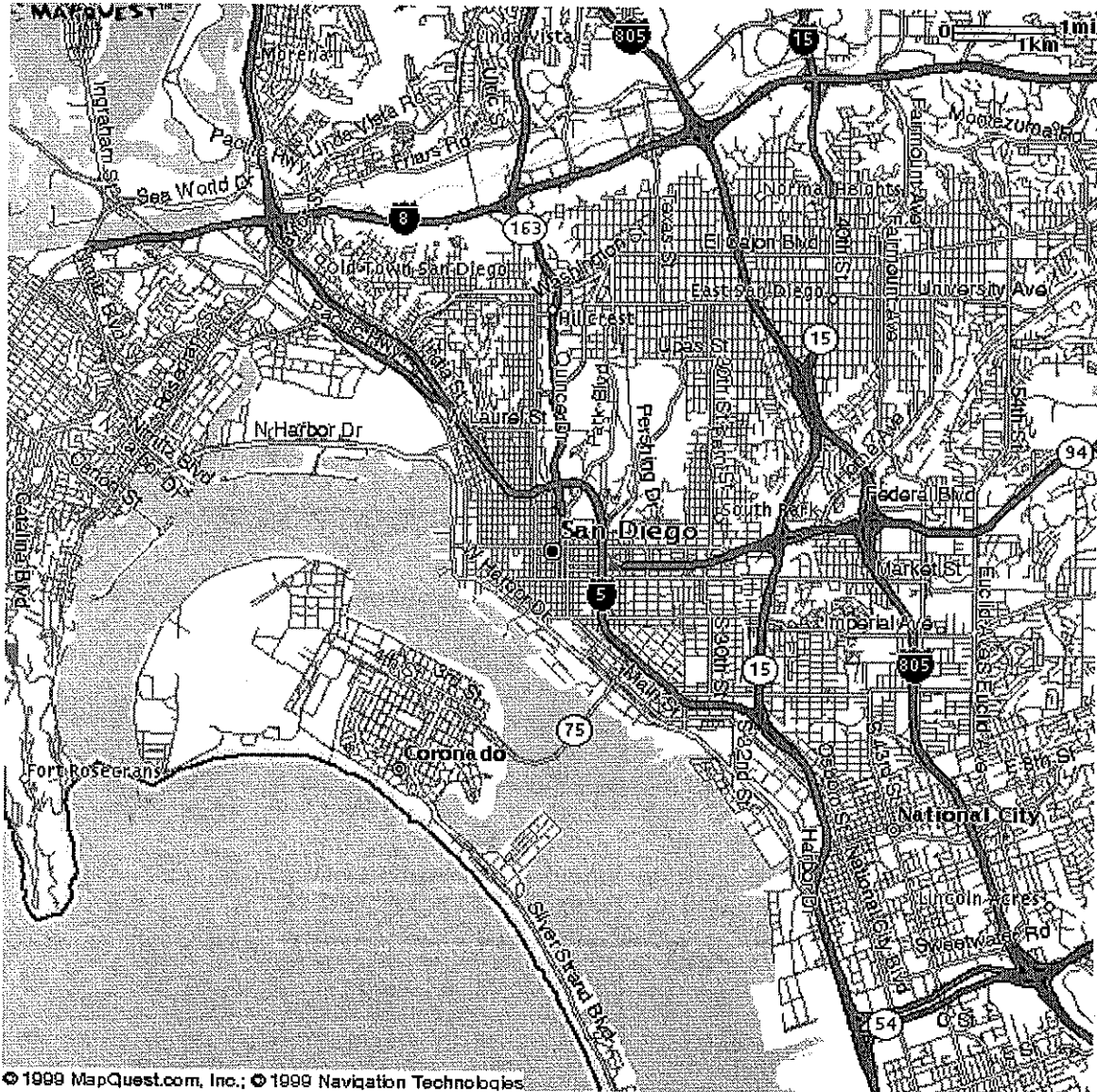
There were basically **three competing interests**: developers, environmentalists, and citizens of existing communities—NIMBYs. City staff expected most of the obstacles they encountered, so they weren't too caught off guard by anything.

The **Coastal Commission** has been the biggest political barrier, because the City tried to develop regulations that applied city-wide. By the end of the coastal commission process, they had revised a lot of the key regulations to put more stringent regulations on the coastal zones.

Every time someone ran for election, different issues would get raised and priorities changed. Staff kept the Council out of the loop until the end of the process. The council subcommittee was involved the whole time, though.

Reactions/input from development community

San Diego doesn't expect much reaction until the ordinance gets implemented which is expected to occur in January 1999. Some opponents voiced concerns during the Coastal Commission hearings to try to get changes made then. Before the City implements the code in January, staff is planning large symposiums for developers, attorneys, and community groups to explain the implications of the new code. The Council, anticipating problems in implementing the new code, set up a monitoring program for the next two years. Staff will monitor any problems and will go back to the council every quarter with any recommended changes or modifications.



Map of San Diego

DETROIT #7

Pop: 1,027,974 Area: 138.7 sq. mi. Density: 7,411 ple/sq.mi.

Spoke with Rory Bolger, Social Planner V and zoning rewrite Project Manager, City of Detroit, on 8/12/99 Phone: (313) 224-3219

Time Frame

The City is currently in the process of rewriting its Zoning Ordinance. Work began in January 1998 and completion is estimated for February of 2000.

The Impetus

There was a failed attempt at reform under a previous city administration, about 5 years earlier. It never got off the ground, largely due to administrative barriers; there were conflicts between city departments and funding wasn't secured. The new administration used **streamlining the permitting and licensing processes** of the City as an impetus for addressing zoning citywide. The planning department saw this as an opportunity to address the long standing goal of bringing the ordinance up to date with modern building and design practices and enhancing **user-friendliness**. There were too many instances where the zoning counter staff was let to interpret ambiguous language in the ordinance, leading to inconsistent code enforcement. The reform process became a collaborative effort between the planning department and Mayor's office. The ordinance also omitted many items and contained many that required clearer definition. Staff was frustrated with piecemeal amendments to the ordinance and realized that it made more sense to do a complete overhaul.

The Process

- The City hired **outside consultants**: Denver-based Clarion Associates was the lead firm and Duncan Associates of Chicago was also on the team.
- The consultants came to town, **interviewed City staff, civic groups, developers, etc.**, gathered input from the various interests, and then summarized and wrote a critique of the existing code.
- The Planning Commission staff created a **Zoning Advisory Group**. This was a small group of community activists, developers, planners, attorneys, and a representative from the largest retail association. This group covered Detroit's demographic and geographic distribution.
- Staff also created an **interdepartmental working group** of city staff.
- These groups would meet with the consultants regularly. At first, they were held as separate meetings; later, they were combined.
- The consultants routinely presented drafts to the staff. Staff reviewed these and returned them with their comments for further revisions.

What will change and how much?

No changes are being made to the zoning map. The entire text will be repealed, but quite a bit of the new text will be **non-substantive rewrites** for clarity. The new code will be reorganized with new section numbers and will introduce graphs, figures and illustrations. A significant content change is the **introduction of design review authority**. The project manager estimates that about 35% of content will actually change.

The Current Code

The current code was written in 1968 and restructured in 1980, but the content basically remained unchanged.

Political Barriers and Other Obstacles

- The city hasn't run into many obstacles yet, but it's taking a while to reach consensus on procedural issues (i.e. who will have jurisdiction over particular kinds of land uses).
- The other difficult area is **deciding on the appropriate site plan review procedure**. This is an area Detroit hasn't been involved in before. It has been useful to see the models of development review that the consultants have suggested and work from there.
- Staff originally hoped for an 18-month process, but that quickly proved to be unrealistic. However, the City had the funding to extend their contract when needed. The whole process needed **more City staff time than expected**.
- It's been very demanding on staff to stay on top of the progress and keep **strong communication** with the consultants along the way. Immediate needs take up a lot of the staff's time before they can get around to reviewing materials from their consultant.
- There haven't been too many political obstacles so far, and none are anticipated when it goes to the city council.

Input and Reactions from the Development Community

The development community is reserving comment until staff has finalized the details of site plan review. Staff really wants to develop a process that results in the City dealing only with a limited numbers of issues and cases. They are carefully setting thresholds that will trigger site plan review.

Accompanying Materials

Original contract with consultant—outlines scope of services (Appendix B)



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Map of Detroit

SAN JOSE #11

Pop: 782,248

Area: 171.3 sq. mi.

Density: 4,567 ple/sq. mi.

Spoke with Jean Hamilton, Senior Planner, City of San Jose on 8/3
Phone: (408) 277-8556

Time Frame

San Jose is currently rewriting its zoning ordinance. The process began in 1997 after City Council authorized funding. Due primarily to insufficient staffing levels, they are still working on it. They estimate that the first draft will be ready for their attorneys in about a month.

The Impetus/Objectives

City Planning staff felt the best approach would be to take a holistic look at their code and to reorganize it in a comprehensive manner. The new code will be logically organized from general to specific, instead of the confused pattern that resulted from almost 250 amendments over time. Overall, staff would like to better align it with the land use designations in the general plan. More specifically, staff also wants to bring use listings up to date and take a new look at parking issues (for instance, to figure out new "opportunities" for shopping center parking).

The Process

- Staff organized **focus groups** with various business and civic interests to help identify issues that would need to be addressed in the zoning rewrite.
- City staff created an **internal working group** of various city staff members, usually principals and seniors from various sections within the department.
- The internal working group went through the code topic-by-topic to identify areas to address, as well as areas to be maintained; eventually, it developed the direction it wanted.
- **San Jose hired Blayne Dyett (now Dyett Bhatia)** on a \$50,000 contract to provide basic advice regarding appropriate sections of the code to modify.
- **Outreach meetings with the development community** were established early in the process, but basically the process has been the effort of 2.5 staff people for the last couple years.
- The "conceptual code" that is expected in the coming months will go to the lawyers to develop the **appropriate format**.
- The City will hold a **series of outreach meetings** where they will present the substantive changes and request feedback from citizen groups, realtors, developers, etc. These meetings will focus on substantive changes.
- There will be a **public hearing in front of the Planning Commission**.
- Upon a recommendation from the Planning Commission, the new code will go before **City Council**.

How much will really change?

About 10-20% of the content will be new, but the overall format and organization was completely changed. Staff would like to include graphic illustrations of the requirements, if the attorneys are comfortable with the legal enforcement of them.

The Current Code

The current zoning ordinance was originally written in 1929, and has been amended almost 250 times since.

Political Barriers and Other Obstacles

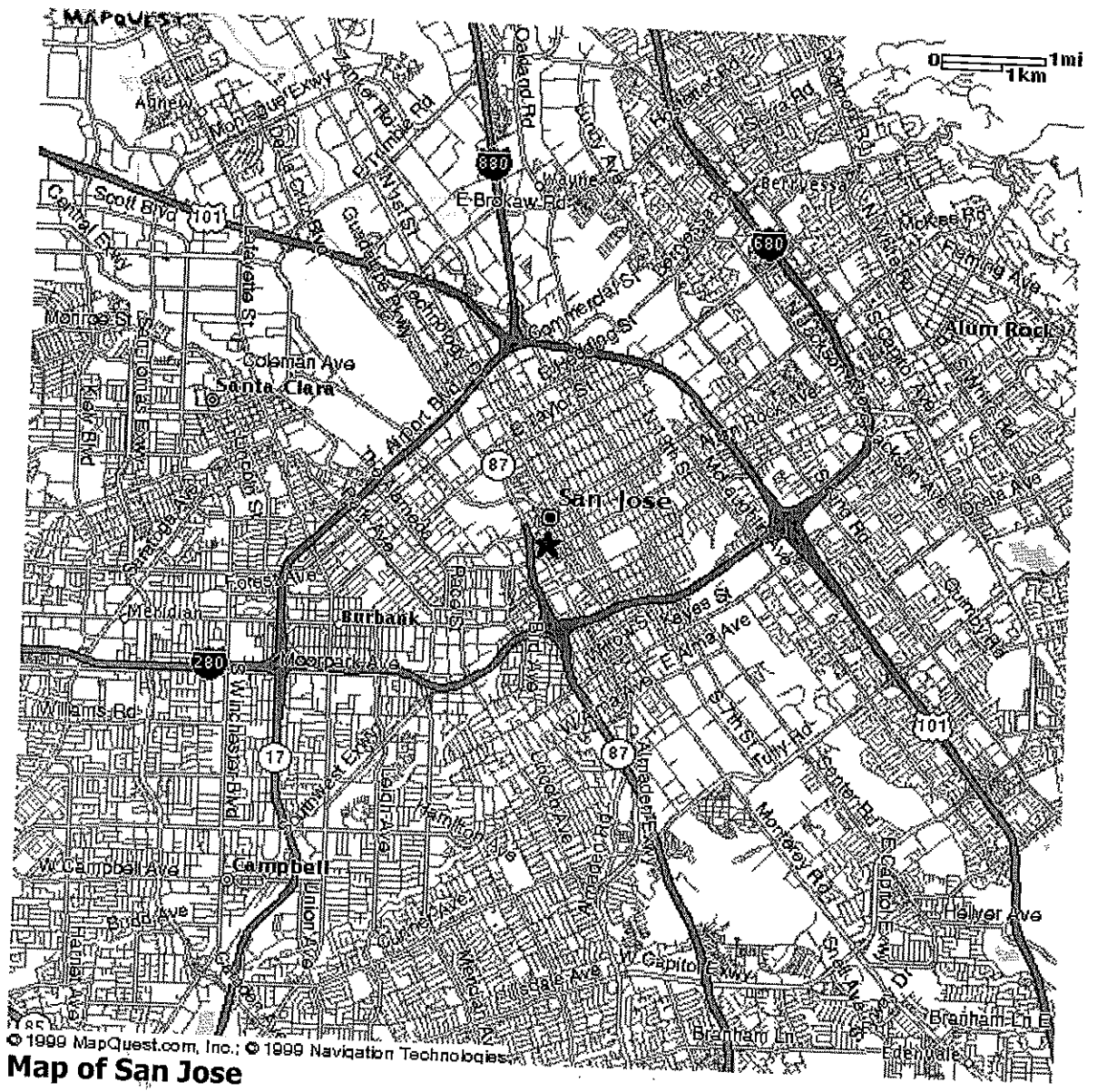
San Jose hired a consultant, but found it very difficult to use the consultant for substantive input. A national consultant can only know so much about each particular community. The biggest obstacle has been **getting the support needed** to complete this in a timely manner. Zoning reform is not something everyone gets excited about and supports like other comprehensive planning efforts. It has been a challenge to get the support needed which, in turn, lengthens the process. Although zoning isn't the most exciting tool used in planning, it is the base from which so many decisions are made. PUDs and variances are so often used in San Jose that people tend to discount the value of the zoning code. Many people don't understand how much work goes into this type of project—another misconception that tends to undermine support.

Input and Reactions from the Development Community

Leaders in the development community participated in early **focus groups** and gave their input at that point. Basically, **developers requested the city codify guidelines it was using in the discretionary review process**. They would like the whole process streamlined and to know what to expect, and would like to **reduce the need for planned unit developments**. It is too early to know what their reactions will be to the new code since it has not yet been implemented.

Accompanying Materials

Status report from Planning Department to the Mayor and City Council, dated May 24, 1999—describes the four phases of the zoning reform process (Appendix C)



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Map of San Jose

TUCSON #33

Pop: 405,390 Area: 156.3 sq. mi. Density: 2,594 ple/sq. mi.

Spoke with Sarah Moore, Principal Planner, City of Tucson, on 8/17/99. Phone: (520) 791-4571

Time Frame

A new zoning ordinance was adopted in 1995 after a 12 to 15-year process, depending on "when you start counting."

The Impetus

Change was brought on by a combination of internal and external pressures. Neighborhood groups had been complaining about the code, and developers found it difficult to understand the required process. Board of Adjustment changes—variations to the existing code—were needed too often. City staff also developed a long list of issues that needed to be addressed.

The Process

- Tucson had a **ULI site technical assistance panel** study their zoning; out of that came a recommendation to change the code.
- Planning staff researched the topic and thought about it for a few years, raising different issues and problems with the code.
- A **subcommittee of the planning commission** was formed to work with staff to address the issues that had been raised. In addition to planning commission members, this group consisted of planners, attorneys, architects, developers, neighborhood activists, and environmentalists. Additionally, staff used their contacts to tap experts on specific issues when needed. This group provided the expertise that staff needed to draft the new code.
- These meetings were open to the public, and notices were published in the local papers.
- During the last couple of years, they had 12 **planning commission hearings**, about zoning reform.

What was changed and how much?

The entire ordinance was rewritten. All of the administrative procedures were recodified. Some overlay zones had been updated more recently and didn't require as many changes but were still recodified in accordance with the new format. Some new performance standards were added. The code's "use listings" are now more categorical and easier to use.

The Old Code

The previous code was written in 1948 and had been amended inconsistently along the way.

Political barriers/obstacles

Tucson did not use an outside consultant mainly because council sees the staff as a fixed cost and were less concerned with how long the process took. Several full-time staff worked solely on zoning, but the rewrite still took an immense amount of time.

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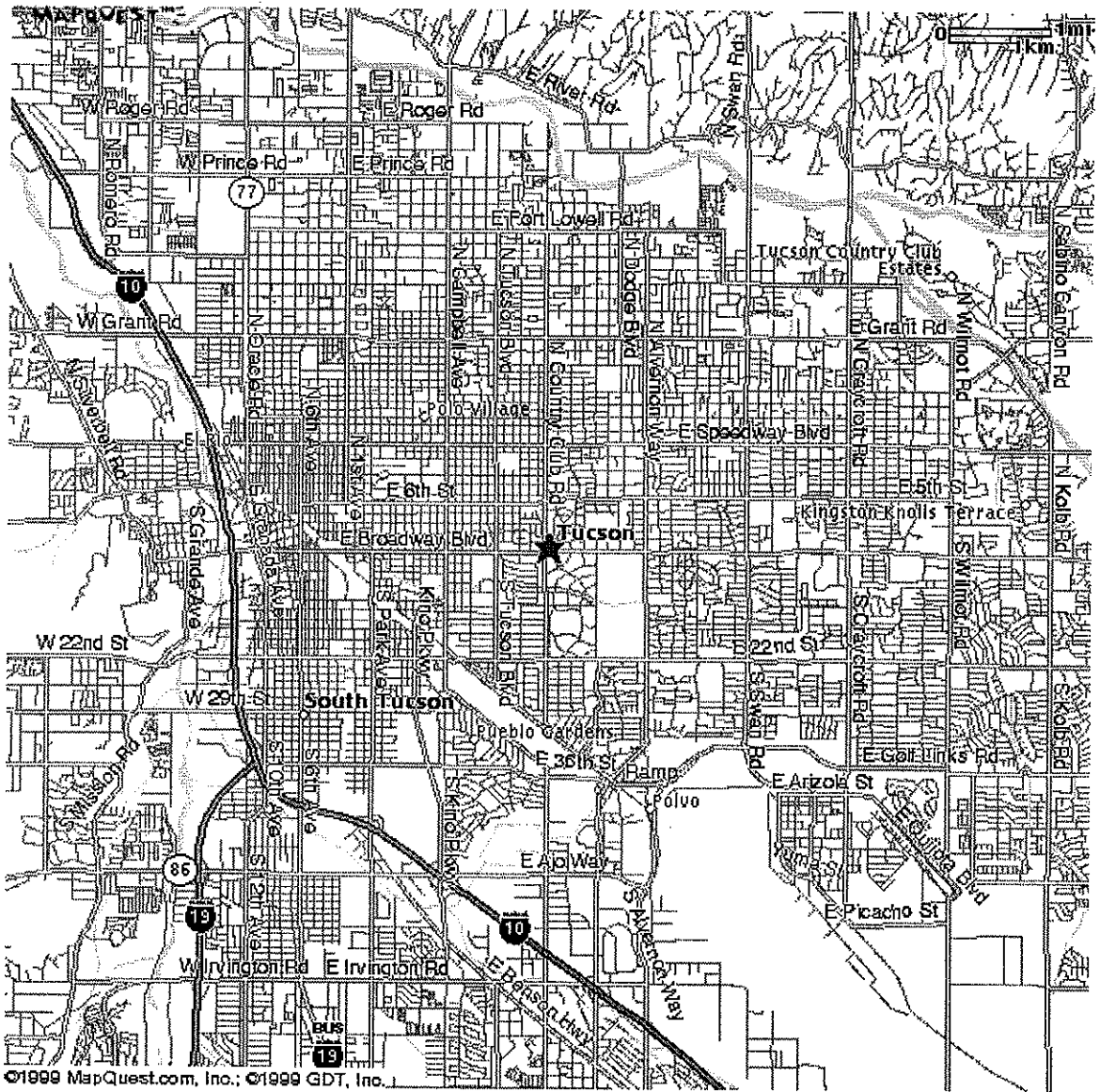
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Reactions/input from development community

Initially, the new ordinance received a good reaction. Some glitches popped up as the code started to be put to use. Landowners like the new use listings, because they are more general and allow for more flexibility.

Accompanying Materials

Tucson's new zoning ordinance



Map of Tucson

MINNEAPOLIS #42

Pop: 368,383

Area: 54.9 sq. mi. Density: 6,710 ple/sq. mi.

Spoke with Blake Graham, Planning Supervisor, City of Minneapolis on 8/10.
Phone: (612) 673-2597

Time Frame

Minneapolis is just finishing up a three-year process of rewriting its zoning ordinance. The final Planning Commission hearing was held on August 9, 1999. The Planning Commission make its final recommendation on the ordinance in September. The Council is expected to adopt the ordinance by November.

The Process

- Minneapolis divided its process into two parts: **the text of the new code and the map**. More emphasis was placed on drafting the text and polices of the new code.
- Staff conducted many **community-based workshops** and **public hearings** on the proposed new provisions before addressing the zoning map. The workshops served to educate people on the current issues and usually answered most of their questions.
- Workshops were timed to precede a **Planning Commission** hearing. The workshops were often better attended than the commission hearings.
- During the drafting stage, staff developed and sent out a **newsletter** to keep interested citizens informed about the process.
- At first, Minneapolis organized many committees and sub-committees for various areas of the code. They soon discovered that this approach was too fragmented and did not offer a **balance of competing interests**. Also, the sheer number of committees stretched the staff thin.
- The next approach tried was to create one **zoning advisory committee** comprised of a cross-section of the older committees' membership. The new zoning advisory committee met monthly throughout the process and contained 25 people, including residents, business interests, and civic interests.
- Staff developed a series of discussion items for each policy. These items were debated before consensus was reached for each new policy.
- The zoning advisory committee was responsible for drafting various parts of the code. The committee was disbanded about a year ago, when it wrapped up the final discussion on the text.
- Once the text portion of the code was in complete draft form, staff began **working on the map**.
- Staff sent out notices of the workshops and hearings focused on the mapping effort to **every potential property** expected to receive a new designation. They wanted to make sure that everyone had an opportunity to get involved in the process.
- For the mapping phase of the process, staff focused on getting meeting notices in neighborhood newspapers and coverage in **major newspapers**. Both efforts were successful and were credited with adding to the public process.
- The residential districts of the map remain largely unchanged, but **all other classifications were remapped**.
- The City is now completing the **downtown provisions**, including a new zoning bonus system.

What was changed and how much?

The text was almost entirely rewritten, but the map wasn't changed quite as drastically. The code was restructured into a chapter-by-chapter format and is more readable.

Obstacles

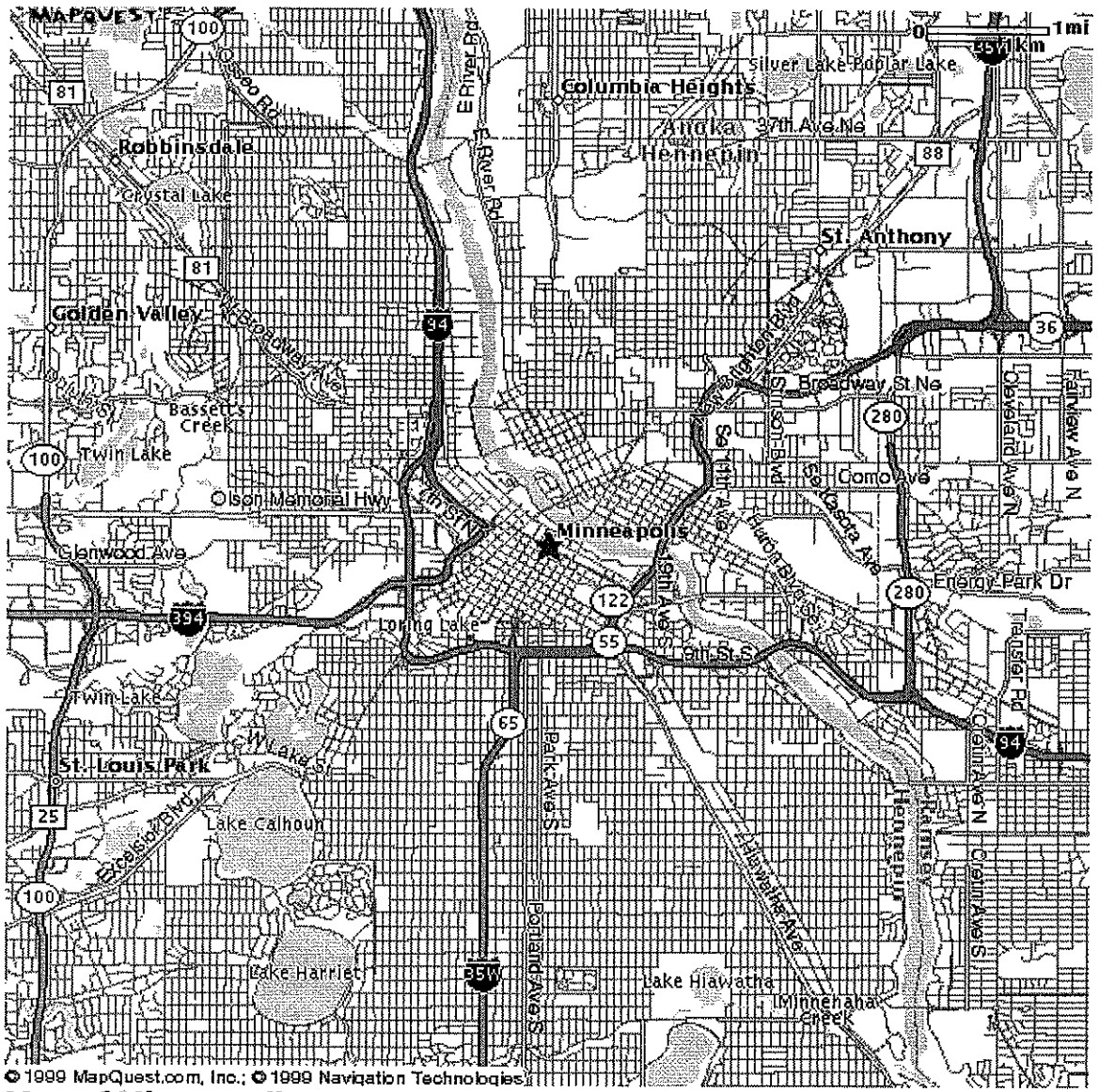
The City started out with four full-time staff working on this; a figure which has dwindled to one. The Planning Supervisor warns Chicago to "be prepared for an 8-10 year process" due to a larger scope of work. (Note: Chicago will likely dedicate more staff and consultant resources than Minneapolis.)

Reactions/input from development community

The reactions have been generally positive, but not without controversy. Downtown has proved a particular sticking point, with many businesses opposing the bonus system changes. The downtown community should accept the new code eventually, since many users are recognizing the value of the revised regulations upon implementation. New regulations for neighborhood commercial districts are also being changed have also garnered mixed reviews. Many of the new districts are more permissive than the existing districts, but over-zoning in the 1960s has allowed the city to up- and down-zone where necessary without creating non-conformities. The Planning Supervisor predicts that most people will be pleased with the changes once they need to use the new ordinance.

Accompanying Materials

A draft code will be available in September.



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Map of Minneapolis

HONOLULU #44

Pop: 365,272

Area: 82.8 sq. mi. Density: 4,411 ple/sq. mi.

Spoke with: Elizabeth Chin, Branch Chief and Geri Ung, Staff Planner, City of Honolulu on 8/11
Phone: (808) 523-4432

Time Frame

A new zoning ordinance was adopted in May 1999 after a one-year process.

The Impetus/Objectives

This reform started when the Mayor requested a streamlining process. The public was dissatisfied with the long development process, and regulations were dampening economic growth in a decade-long economic slump. Changes simplified the permitting process and limited the number of projects that require departmental review.

Staff outlined six goals for the zoning rewrite that were all related to simplifying the permitting and review process (see attachment).

The Process

- The City hired a local law firm as a consultant; the law firm then subcontracted to a local planning firm.
- Some initial workshops were used to collect public input.
- The consultant team, along with two staff members, essentially did all the work.
- The consultants first documented the issues that staff raised concerning the ordinance.
- The Zoning Committee of the City Council reviewed changes along the way.

In general, **public participation was not heavily sought**, after past experiences. A previous zoning reform effort used an 80-person committee made up of various members of citizen groups, from developers to the Sierra Club. This group accomplished very little, because it was too hard to deal with such a large and comprehensive group. After this experience, there was not a comprehensive outreach effort for this zoning rewrite.

What was changed and how much?

Many chapters were left intact, but just placed in different areas. This effort was mostly a code reorganization, with some substantive changes to non-conforming uses and parking standards. The result was a more user-friendly code with a simplified permitting process.

Political barriers/obstacles

It took longer than expected, and the consultants exceeded the contract amount. It's easy to get distracted, but staff used the goals as the backbone of the process to keep them focused. One staff planner's advice is to establish goals at the beginning of the process and then to ask "does this fit any of our goals?" whenever staff considers a change. If not, throw it out. Staff found this method useful for justifying and describing changes to both the Planning Commission and the City Council.

Reactions/input from development community

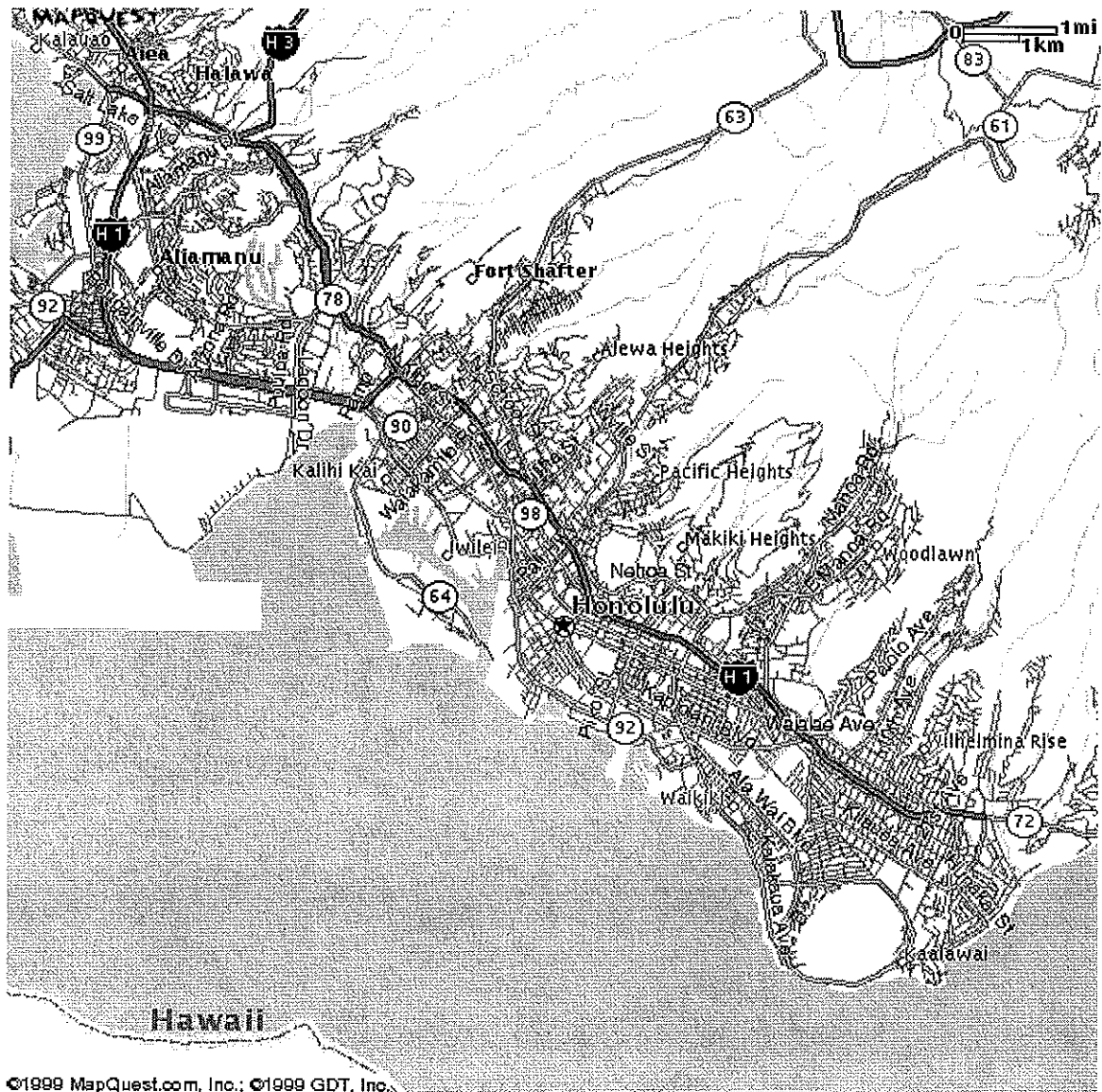
The reaction has been fabulous. The new ordinance was developed with single-family homeowners and small business owners in mind; they love it, because the new code is so much easier for everyone to use.

Other

This ordinance covers the whole island of Oahu. Oahu is the county in which Honolulu is located and there is one zoning ordinance for both the City and County.

Accompanying Materials

Report to Planning Commission from Planning Department—provides a general overview of the ordinance, including the goals established (Appendix D).
The new ordinance will be mailed to MPC in September.



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Map of Honolulu

¹ Each city is ranked by population. All statistical data is 1990 Census information.

Top 75 Cities

#	City	Phone	Who?	Last Contact	Yes or No
1	New York	(212) 720-3262	Zoning—Tom Vargo	spoke with 8/17 and 9/1	NO, 1967 large sections since, but mostly in the 80's
2	Los Angeles	(213) 367-9150	city smith	left vm 8/11	
4	Houston	(281) 498-4127	City	talked to someone on 8/11	NO, Houston does not have zoning
5	Philadelphia	(215) 683-4602	David A. Baldinger	Deputy Executive Director of planning commission	NO, 1966 was last rewrite
6	San Diego	(619) 236-6270	236-6492 Dan Joyce and Kelly Broughton, Dep. Dir. 236-5932	Spoke w/ Dan Joyce 8/20, Kelly called me back 8/26	yes, finishing 8-year process
7	Detroit	(313) 224-3219	Rory Bolger, Social Planner V and Project Manager	spoke w/ on 8/12	yes
8	Dallas	(214) 948-4480	Zoning Information/ Building Permits	Late Ferburg	NO, 1988 last rewrite
9	Phoenix	(602) 262-4870	Lynn Favour	talked to on 7/26	NO
10	San Antonio	(210) 207-7873	Planning Department—Pete	left msg. 8/16	
11	San Jose	(408) 277-8556	Jean Hamilton	left me a vm on 8/3	yes, beginning the process
12	Baltimore	(410) 396-5171	Susan Williams	spoke with 8/9	NO, 1971 last rewrite
13	Indianapolis	(317) 327-5151	Maury Plambeck	talked to on 7/26	yes
14	San Francisco	(415) 558-6377	Planning Department	spoke with someone on 8/11	NO, a few major changes in late 70's and early 80's
15	Jacksonville	(904) 630-1086	Zoning	spoke with zoning supervisor 7/27	NO
16	Columbus, OH	(614) 645-7433	Planning Department	spoke w/ someone 8/9	NO
17	Milwaukee	(414) 285-5900	Greg Patin 286-5465 Brian O'Connell 286-5720	spoke w/ Greg on 8/2, left vm 9/9	yes, finishing one-year process of rewriting ordinance
18	Memphis	(901) 576-7197	Denise Sharpe	Emailed Bob Greenstreet wvm 9/9, 9/10	NO, 1987 was the last major rewrite
19	Washington D.C.	(202) 727-0363	Betty Williams, office of zoning	talked to on 7/27	NO, use original 1920's ordinance
20	Boston	(617) 722-4300	Jeff Hampton, Hugues Monestime, Boston Redevelopment Authority	spoke w/ Jeff on 8/9, 9/9 and w/ Hugues 8/23	yes, it's been in process for 10 years
21	Seattle	(206) 684-3850	Diane Sugimura, Department of Design, Construction and Land Use	spoke w/ 8/9 (Diane's direct 233-3882) vm 9/7	yes, recently finished 15-year process, beginning reorg process
22	El Paso	(915) 541-4193	Scott Stanfield	spoke with on 7/30	yes, just started process
23	Cleveland	(216) 664-2210	Bob Brown, 664-3467	talked to 8/19	NO, use original 1930's ordinance
24	New Orleans	(504) 565-7000	Planning Commission, Mindy/Kristina Ford	spoke with Mindy 7/28, Kristina 8/18	yes, in the process now

Bold=Yes to Reform in last 5 Years
italic=NO Reform in last 5 Years
 Gray Fill=City detailed in this report

Top 75 Cities

#	City	Phone	Who?	Last Contact	Yes or No
25	Nashville-Davidson	(615) 862-7150	Planning Commission-Jake Brooks	spoke with 7/27	yes, finished 5-year process in January 1998
26	Denver	(303) 640-2736	Elvira Thomas	Planning Department	NO, 1980 it was "recodified" but just minor changes since then
27	Austin	(512) 499-2387	Greg Gernsey	7/28 called me back	yes, recodified a couple months ago, no intent changed, just format
28	Fort Worth	(817) 871-8028	planning and growth mgmt.	spoke to Katya Kirsh 7/28	yes, but just reformatting to make more user-friendly
29	Oklahoma City	(405) 297-2287	Bob Myer, long range planner	spoke with Bob on 7/28	NO, working on comp plan, zoning will follow next year
30	Portland	(503) 823-2375	Community Dipmt. Bureau	on 7/29 a planner refered me to Cary Pinard at 823-7846	NO, complete rewrite in 1991, talk to Cary about process
31	Kansas City	(816) 274-1844	Virginia Walsh	spoke with John Eckhart 7/27	yes, in the process now
32	Long Beach	(562) 570-6194	zoning info bureau	spoke with someone 7/29	NO, last rewrite in the 80s sometime
33	Tucson	(520) 791-4571	advanced planning, Roger Howlett	spoke to Sarah Moore 8/17	Yes, finished in 95
34	St. Louis	(314) 622-3313	zoning	spoke with someone 7/28	NO, use their 1979 ordinance
35	Charlotte	(704) 336-3569	Keith McVane @ 336-5738 (plan commission)	spoke with Keith 8/26	NO, rewritten in 1992
36	Atlanta	(404) 330-6023	Zoning	spoke with someone 8/2	NO, last rewrite was in 1982
37	Virginia Beach	(757) 426-5790	Planning and Zoning	spoke with a planner 8/16	NO, April 1988, last rewrite
38	Albuquerque	(505) 924-3860	zoning	spoke w/ zoning officer 8/20	NO, use 1959 ordinance
39	Oakland	(510) 238-3941	Planning and Zoning Division of Community and Economic Development	spoke w/ Deborah Diamond 238-3063 8/20	yes, in the process now
40	Pittsburgh	(412) 255-2200	Susan Tymoczko w/ City (255-2470), Karen Breen w/ Karen Breen Associates	Spoke with Susan and Karen (244-3445) on 8/10, Karen 8/30, Susan 9/8, msg. For Eloise Hirsch (255-2201) 9/8	yes, finishing up process now
41	Sacramento	(916) 264-5698	Donna Decker, spoke with 8/18	Joy Paterson 264-5607, returned my call 8/24	yes, recently adopted new code
42	Minneapolis	(612) 673-2597	Blake Graham	spoke with on 8/10	yes, finishing up process now
43	Tulsa	(918) 584-7526	zoning	spoke w/ zoning officer 8/11	NO, last rewrite was 1970
44	Honolulu	(808) 523-4432	Elizabeth Chin, Gen Ung	Spoke with Elizabeth 8/10, Geri 8/11	yes
45	Cincinnati	513	Steven Kurtz	spoke w/ 8/10	yes, just began
46	Miami	(305) 416-1400	Lourdes Slazyk, Planning Department	spoke with 8/19 and left msg. 9/1	NO, rewrite in 1990

Bold=Yes to Reform in last 5 Years
Italic=NO Reform in last 5 Years
 Gray Fill=City detailed in this report

Top 75 Cities

#	City	Phone	Who?	Last Contact	Yes or No
47	Fresno	(559) 498-4441	Planning	talk to Dave Stiglich, 1319	yes, in the process now
48	Omaha	(402) 444-5150	Planning	talk to someone on 8/12	NO, last rewrite in May 1987
49	Toledo	419	Gene Naujock, manager of planning	spoke w/ on 8/10	NO, currently doing comp plan, zoning will hopefully follow
50	Buffalo	(716) 851-5087	Marty Grupzweig	spoke w/ on 8/10	No, last rewrite was mid-80s, just did design guidelines
51	Wichita	(316) 268-4421	planning	Spoke w/ Ray Ontiveros 8/18, Dale Miller 4404	Yes, 1996 unified code for city and county
52	Santa Ana, CA	(714) 834-2300			
53	Mesa, AZ	(480) 644-3959	downtown dev. Committee		
54	Colorado Springs	(719) 578-6834	comprehensive planning		
55	Tampa	(813) 274-8401	rick smith director		
56	Newark	(201) 733-3675	harry hines planning officer		
57	St. Paul, MN	(651) 266-6628	brian sweeney director		
58	Louisville, KY	(502) 574-3321	construction review & site planning		
59	Anaheim	(714) 765-5162	city directory		
60	Birmingham, AL	(205) 254-2823	office of public information		
61	Arlington TX				
62	Norfolk, VA				
63	Las Vegas	702			
64	Corpus Cristi, TX	210?			
65	St. Petersburg	(727) 893-7153	Development Services		
66	Rochester, NY	716?			
67	Jersey City	201			
68	Riverside, CA	(909) 782-5371			
69	Anchorage, AK	(907) 343-4431	Mayor's office		
70	Lexington-Fayette, KY				
71	Akron	937?			
72	Aurora, CO	(303) 739-7250	Planning Department		
73	Baton Rouge, LA	504?			
74	Stockton, CA	(209) 937-8266	permit center		
75	Raleigh, NC	919			

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**Appendix A: New York City planning department
website information**

- ***Reforming the New York City Zoning Resolution*--New York City Planning Commissioner Chairman Joseph Rose's speech of 4/20/99**
- ***On Zoning*—Overview of Zoning Resolution**
- **Planning Department Overview**
- **New York City Zoning History**

have page upon page of anachronistic rules but often nothing to address new problems. Some communities are unprotected. At the same time, the over 900 pages of current zoning are full of traps for innocent businesses and property owners who wish to make investments that would be welcomed in any other American municipality.

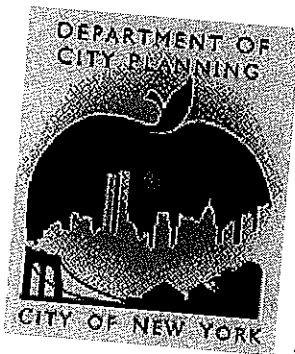
And finally, we are in crisis because there are those who would use these evident deficiencies in the zoning resolution as an excuse for discarding the essential character of New York City: the openness to change and the welcoming of new people, buildings, businesses, and ideas. Under the guise of writing a new zoning resolution, they would slam shut the door and refuse to accommodate the ongoing growth and evolution that has allowed New York to thrive, while so many other older American cities have entered an era of decline.

It is precisely the fear of playing into the hands of such conservative tendencies that has stopped responsible government agencies most familiar with the shortcomings of the zoning resolution from undertaking significant reform. These are, in fact, reasonable fears. For most of our municipal officials, it has been far safer to muddle through with our existing flawed document than to risk opening the Pandora's box of zoning reform.

It is thus, not without some trepidation that I initiate this discussion. But, after more than five years as chairman of the New York City Planning Commission, and a combined two decades in the land use field as a public official, housing advocate and Community Board Chairman, I am convinced that meaningful zoning reform can no longer wait. Further delay would allow continued damaging manipulation by those indifferent to the general consequences of their actions; the avoidable degradation of valued neighborhoods; lost opportunities for needed economic growth; and the possible eventual subversion of New York City's core values.

Let me begin, then, with a clear statement of the basic principles that we have a right to expect from our zoning:

- 1. Zoning must be predictable.** Similar circumstances should produce similar results. That does not mean that all buildings should look alike or that all uses should be uniform. But potential outcomes in a given zoning district should produce a consistent level of impact on the surrounding community.
- 2. Zoning should be comprehensible.** Any reasonably intelligent and diligent individual should be able to understand the range of possibilities that zoning permits on a given plot of land and the rationale for the regulatory framework.
- 3. Zoning must accommodate growth and change.** It is essential that zoning provide the opportunity to develop residential, commercial, and industrial buildings and community facilities to meet the future needs of the city's expanding economy and dynamic population.
- 4. Zoning should respect the urban fabric and protect the quality of life.** Neighborhoods should not be overwhelmed by inappropriate development.
- 5. Zoning must be enforceable.** We must be realistic about the regulatory burden we impose on our economy and on those who enforce our rules. If we expect zoning violations to be taken seriously, we must respect the



Reforming the New York City Zoning Resolution

Joseph B. Rose
4/20/99

I want to begin by thanking all who are here for having taken time from your busy work schedules to come to an address entitled "Reforming the New York City Zoning Resolution." There are many who would find the subject of reforming the city's land use regulations less than absorbing. But as this audience knows, New York City's zoning ordinance is the central document shaping how our city grows and evolves.

It might be worth pausing at the start of a talk about zoning, to respond to those who will inevitably mouth the cliché, "New York's problem is that we confuse zoning with planning." The answer is simply, "No, we don't." New York City didn't emerge as the economic and cultural capital of the world overnight, or by accident. Several centuries of close collaboration and farsighted investment by the public and private sectors created this extraordinary place. No other city in history has ever spent as much time and effort trying to understand itself or create infrastructure and adopt policies to provide for future prosperity. To be sure, we have at times made serious mistakes and missed opportunities, but the sustained record of vision, leadership, and innovation of New York City's public officials, private entrepreneurs, and civic-minded citizens is remarkable. We have planned from our very conception and we will continue to do so.

At this point in our history, zoning is a fundamentally important tool in our effort to shape the kind of city we want to have, and is far more significant than any "master plan" could ever be. Why? Because New York City is already built out to its edges, with most of its critical infrastructure systems and land use patterns already in place. We change, not in sweeping ways, but organically, as a result of the reuse and redevelopment of individual properties. And no developed urban place in the world sees as much reuse and redevelopment as we do. The zoning resolution is our main method of managing and channeling that redevelopment and I have asked you here today because it is in crisis.

We are in crisis because this crucial document has become a hodgepodge of conflicting visions and objectives. Because the zoning is in many cases neither predictable nor comprehensible, it has become discredited in the eyes of the public. It is perceived to be the tool of those who manipulate it to achieve whatever result they or their clients want, regardless of the drafters' intent or the public interest. This apparent malleability has also unfairly undermined confidence in the overwhelmed public officials charged with interpreting and enforcing often-ambiguous rules.

We are in crisis because in many instances our zoning promotes an architectural vision that does violence to our urban fabric.

We are in crisis because we try to micromanage the world's most vital and varied urban economy with regulations that were drafted 40 years ago. As a result we

legitimate signals of the marketplace and not waste scarce administrative resources trying to squash the new without sound reasons.

I am certain we can achieve these results if we are prepared to make dramatic reforms to our current zoning resolution. There are some who will find that statement disappointing because they would like to discard the entire 900-page document and start from scratch. Every few years someone suggests we appoint a panel of distinguished citizens to conduct a high-minded debate on how to draft new zoning. Such an effort would be futile and unnecessary. The last time this was tried it took two decades and produced a document with all the flaws that we must now correct. Those calling for a new zoning resolution do so for many different reasons—some of which are obviously in conflict. Starting from scratch would lead us into a quagmire from which we might never emerge. Many aspects of our current zoning work well. New York doesn't need a new zoning resolution, only a better one. We know the key issues that create anachronistic and ineffective zoning, and they can and should be addressed now.

To understand how best to fix our zoning, it's worth taking a moment to review how we arrived at our current situation. New York City has always been a pioneer of zoning innovation. Our 1916 ordinance was the first comprehensive effort in the nation to employ height, lot coverage and use restrictions to create a proper balance between demographic and economic growth and an improved quality of life. The 1916 zoning ushered in the city's great building boom of the 1920's and established the physical characteristics of most neighborhoods. The quality of the housing stock dramatically improved and we emerged with the familiar uniform streetscapes of Broadway, Central Park West, Park Avenue, Ocean Parkway, and the Grand Concourse. The 1916 zoning allowed for the construction of beloved commercial monuments like the Chrysler, Daily News, and Empire State Buildings, while also establishing the consistent scale of most of the city's low-density communities.

But while the 1916 zoning must be judged a great success, it had its failings. It permitted densities that would be intolerable today (in Floor Area Ratio terms yielding residential buildings of over 20 FAR and commercial buildings in excess of 30 FAR). Subsequent calculations indicate that at full build-out it would have sanctioned a city of 55 million residents. The aesthetics of the 1916 zoning worked fine for the grand apartments of the wealthy that could tuck butler's pantries and maid's rooms off back alleys, but did not serve as well for constructing high density middle class housing. Similarly, while the 1916 resolution provided great protections for wealthy neighborhoods and carriage trade businesses, it permitted an extremely wide range of uses in less affluent areas, subjecting most of the city's residents to far more adverse environmental conditions than any New Yorker experiences today.

So, in 1961, a half century later, New York enacted a comprehensive rezoning which dramatically reduced allowable densities (cut by 80%) to address "overbuilding and congestion," introduced provisions for the ubiquitous automobile, and deliberately introduced incentives to create a more open city. Despite exuberant input and initial support from a broad-based civic coalition, the new 1961 zoning soon came under attack for its destructive practical consequences.

In fact, many of the problems we confront in zoning today derive from tentative and haphazard attempts to correct some of the structural mistakes that were made in 1961. Our present regulatory morass is the result of hundreds of amendments that nibble at the flaws of the original document. But despite numerous changes, the 1961 zoning still governs large swaths of the city, at least as one of several

regulatory schemes. Our current predicament is that our zoning resolution has a discredited underlying vision, tempered by a series of quick fixes of varying effectiveness, for a city that was mostly built under a completely different set of regulations. No wonder we're confused!

Before I proceed to describe our agenda for structural reform, we should acknowledge the key success of the 1961 zoning. It established an appropriate hierarchy of densities, radiating out from the Manhattan core to the city's vast outlying neighborhoods of small homes. These densities broadly match the carrying capacity of our infrastructure and offer New Yorkers a wide range of living environments to choose from.

There are some who will object to the assertion that, by and large, the densities established by the 1961 zoning are appropriate. They will mistakenly argue that zoning is allowing the city to become intolerably dense, taxing the infrastructure, and ruining the character of our neighborhoods. But the facts clearly refute such a view: New York City's population has been stable for almost fifty years. Even adding a half million to the current official Census Bureau estimate of 7.4 million New Yorkers would put us at essentially the same population we had at our peaks in 1950 and 1970. Similarly, our employment is still a few hundred thousand jobs below the 1969 peak of 3.8 million. Even the Upper East Side of Manhattan, the densest area of the United States, has considerably fewer residents than it did several decades ago. Density is not the problem.

What then has been going on? The answer is that while our population has not grown, we have more households of fewer people on average than we did before. Average household size dropped from 3.2 in 1950 to 2.5 in 1990, and the number of households increased by half a million. A more affluent population wants larger bedrooms, bigger kitchens, more bathrooms, and better electric service; things taken for granted in the rest of the country. We are encountering an equivalent phenomenon in commercial development where in the past three decades the average worker's space requirements have expanded from 125 square feet to 250. Businesses are also seeking higher standards of finish, amenity, and unobstructed floor plates that can usually be best achieved in new buildings.

Thus, our housing and business places are being modernized without expanding our population or job base. And it is essential that this continue. If the city is to thrive people must have adequate housing choices and businesses must have room to grow and create the jobs we need. There is no need to apologize for our present urban density.

The reality is that New York City is among the most benign arrangements for accommodating large numbers of people in a complex, prosperous, and sustainable environment ever achieved. That is why people of all income levels from all over the world continue to come here. In short, New York needs more development, not less.

But supporting development does not mean that the City should be indifferent to how and where development occurs. And it is on this subject that the 1961 zoning failed egregiously. The 1961 zoning imposed an aesthetic regime of a "tower-in-the-park" which has proven to be a fundamentally flawed, anti-urban and anti-New York concept. Indeed, this aesthetic was under siege from the moment it went into effect. At the same time that New York City unveiled its preferred architectural vision of towers surrounded by often-sterile open space, critics of the urban renewal aesthetic were just finding their voices. It did not take long for most New Yorkers to discover that something had gone seriously wrong.

Of course, tall tower buildings are not in and of themselves bad and the best have become some of our city's most beloved icons. However, we have learned some painful lessons. One lesson is that the visual disorientation of urban towers needs to be ameliorated by a well-designed base that relates to the traditional cityscape. Another lesson has been that the concept of providing incentives to real estate developers to provide public open space on private properties produces largely unsatisfactory results. This is especially true in residential neighborhoods, despite repeated attempts at reform.

A third lesson of the post 1961 era has been that views have become so prized that we unleashed an intense desire for building height without regard for neighborhood character or scale. Each new building tries to achieve better views by being taller than the last. The consequence has been a powerful inducement to break away vertically as far as possible from the neighborhood pack. While there is nothing wrong with nice views, it is not necessary to have a city shaped by a desperate grab for them.

Of course, we have known all this for a long time. We have tried so hard to address the failings of the tower-in-the-park concept in a subtle and politically shrewd manner that we have tied our zoning up in knots and left ourselves prey to all sorts of chicanery.

What then are we to do? Most of us may agree that a tower 900 feet tall is far too much in a residential community, but achieving consensus on what should be permitted is not always easy. Sound new zoning must balance the flexibility to allow innovative design with a respect for community character. It must also permit developers to build profitably (or else there will be no building) and to produce products that consumers desire.

Well, I have concluded that the time has arrived to stop being subtle. We are going to drive a stake through the heart of tower in the park zoning and its trail of exceptions, caveats, and interpretive gymnastics. The Department of City Planning will shortly propose a new, unified set of bulk regulations for middle to high-density development wherever the 1961 rules still apply. The unified bulk standards will replace the current overlapping regulations we now have with a simple set of workable, predictable rules. They will establish clear height limits for all zoning districts outside the central business districts and they will address how buildings relate to the street, where the public has most of its contact. We will permit suitable towers and design flexibility, but prevent out-of-scale development.

For New York City, height limits are a radical step, but they are clearly needed. In the past, the Department of City Planning has opposed height limits as an unwarranted intrusion on building design. Some people, aware of our longstanding position, have suggested limits on "zoning lot mergers" as an alternative means of effectively limiting height. But such an effort would, at best, introduce more complexity and arcane formulas to keep zoning lawyers busy for years to come. We should approach our objective by a direct and effective means.

We can simply and quickly draft zoning to deter the worst attributes of recent building. But far more difficult is the challenge of trying to encourage new buildings to be better. We must be careful to avoid becoming a city that celebrates context over innovation, the past over the future. In recent years, New York's elites and civic groups have embraced a historicist aesthetic a little too enthusiastically. This is not Colonial Williamsburg and the world's greatest and most dynamic city should be a hospitable environment for bold new structures. It would be a tragedy if our unified bulk regulations were to suppress the next

generation of great buildings-the Rockefeller Centers, Lever Houses or Seagram Buildings of tomorrow. Instead of cloaking ourselves only in the architectural garb of the nineteenth and early twentieth centuries, we must be able to add to our built environment the best of the early 21st century as well. But encouraging good new architecture in the economic, political, and regulatory climate of New York City is a daunting task.

I will now describe the one deliberate exception to our new height and bulk rules. The public process should be able to grant waivers from some regulations on the basis of exceptional design. Let us instill the quest for beauty into the powerful economic drive of this city's real estate entrepreneurs. If that extra height is so important, let it be the developer's architect who earns it, not his lawyer.

Unfortunately, the public sector everywhere has a pretty dismal record when it comes to involving itself in subjective aesthetic decisions and the subject is fraught with practical and legal pitfalls. But if we can bend over backward on behalf of great old buildings, I am confident we can figure out how to do so for great new ones too. To that end, (and hopefully to avoid the mistakes other cities have made in this area) I will be convening an advisory body to help us figure out how we can prudently introduce such values into our zoning.

Of course, runaway heights and undistinguished architecture are not the only symptoms of New York City's zoning crisis. We have other major problems that we should confront as well. Antiquated parking rules inflict needless hassles and cause avoidable congestion when reasonable rules can accommodate New Yorkers' cars. It's time to adapt zoning to the realities of the automobile, even in a city as dense and transit-oriented as New York.

New York is the only American city, actually, the only major world city, that does not permit downtown residences to provide parking for residents who own cars. In much of Manhattan, new developments may not exceed one space for every five new apartments.

The endless search for a legal spot on the street and the \$450 garage space are at least as much a result of zoning as an unavoidable phenomenon of urban life. Our rules were introduced in 1982 to reduce the number of cars entering the central business district by reducing available parking. It didn't work. The number of parking spaces is down 10 percent while car use and ownership are up. After extensive study, we have decided to adopt a more realistic approach that continues to discourage automobile commuter parking but better reflects car ownership patterns in dense neighborhoods. We will also update our parking requirements in lower density areas to insure that auto-oriented businesses like movie multiplexes provide enough parking to avoid having their patrons cruise around adjoining residential areas.

Community facilities present another subject of zoning that demands substantial reform. The 1961 zoning established the most liberal regulations in the nation for schools, colleges, universities, houses of worship, hospitals, and medical offices. They are widely permitted in residential districts and are usually allowed to be much larger than neighboring homes. An ill-advised 1974 zoning amendment subsequently banned all these institutions from our underutilized manufacturing districts on the curious and untested theory that they were a threat to industrial businesses. The result has been that market forces have channeled the immense growth of these uses into vulnerable residential neighborhoods. Our zoning has assisted in transforming treasured community assets into looming threats.

Common sense requires us to restore some balance by imposing necessary use,

speech.html

bulk and parking regulations to lessen the adverse effects of community facilities on residential neighborhoods. At the same time, we will reopen manufacturing zones to these uses. Though some may believe community facilities should not be permitted at all in residential areas, that would be unworkable. Many of these uses need to be near residential areas and there simply is not enough space available or affordable in commercial zones. But it is true that some of the more commercial enterprises, like medical offices, can be guided to cluster in neighborhood office buildings. That would be a realistic expectation once we update our commercial district regulations.

Like many other of its provisions, the zoning resolution's commercial regulations have not kept pace with the evolution of the city. We still essentially rely on exhaustive lists of businesses from the 1950's to tell us what is allowed to go where. These lists make for amusing reading but often don't offer meaningful guidance to a modern economy. We have detailed descriptions of where we can accommodate something called a "frozen food locker," but nothing on how to treat computer, video, or even telephone stores. For five years I have been wondering what was intended by the dictate that some auto service stations must only use "hand tools." Not surprisingly, many of our rules are often ignored. There are now more than 15,000 perfectly harmless businesses operating in locations where they are theoretically in violation of the zoning. Most of them are blissfully unaware of their outlaw status.

Current regulations impede small business activity and undermine attempts at enforcement against real nuisances. Unnecessary restrictions make it impractical for doctors or local service businesses to locate on the second floors of neighborhood commercial buildings. The result is that medical offices are pushed into nearby residential areas and service businesses to the suburbs. For the first time in forty years we are proposing a comprehensive revision of the commercial use rules. Instead of trying to micro-manage these uses block by block with not much success, we will create broad categories of businesses according to their size and impact. Let us worry about auto repair and poultry slaughtering; we can leave the musical instrument repair shops and children's play spaces alone.

Updating the commercial use regulations makes obvious sense; but one might well wonder whether it is really possible. Our recent record of rationalizing commercial regulations in manufacturing areas has been a deep disappointment. While this issue has languished in political limbo for several years, not a single application for permission to build a supermarket or any other regulated large store has been approved. Meanwhile, New Yorkers continue to drive millions of miles each year, and spend billions of dollars, to shop in the suburbs. Our elected officials must join in rising to the occasion to allow supermarkets and other large stores to serve and employ New Yorkers without having to become enmeshed in years of bitter local political battles.

As a final observation, I should point out that not every zoning problem is the fault of our beleaguered ordinance. Our powerful economy creates great incentives to overlook inconvenient laws. The strict billboard regulations we have along arterial highways have been thwarted by ridiculous subterfuges and a casual disregard for rules we have only a limited ability to enforce. We will not sit passively as the city is bombarded with illegal and inappropriate signs. In cooperation with the City Council we will quickly enact new regulations that shut loopholes and give teeth to our enforcement efforts.

The problems of enforcement are not just limited to signs. As many of you know, the difficult task of enforcing the city's vast, contradictory, and ambiguous zoning resolution falls not to us at City Planning, but to the Department of Buildings. The

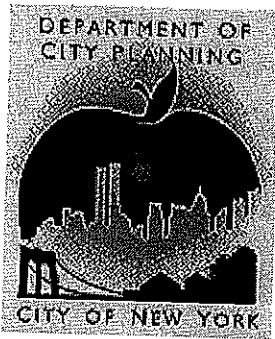
many changes I have outlined today will make their task easier, by providing clear direction and ensuring that prohibitions exist for a substantial and defensible reason. Stripping away obsolete and unworkable provisions, will make the zoning resolution more accessible to the public, who can then assist as the city's "eyes and ears" in reporting zoning violations. Under today's rules, a citizen would have to be a zoning junkie to have any chance of knowing whether or not a given use or building complied with the law. A lean and straightforward set of regulations will ultimately benefit all of us, in our private, public, and civic endeavors.

I have laid out a long and ambitious agenda, and you have all been very kind to listen patiently as I unveiled it. I will not take further advantage of your tolerance. But, in conclusion, I do want to address the question of implementation. Everything I have spoken about this morning is, or will soon be ready to enter the public review process. There is no reason we can't put most of these reforms in place within twelve to eighteen months. Of course, we will have extensive discussions and much opportunity for public comment in the coming months, and our proposals will be refined by that rigorous process. If we all approach this effort with a constructive and cooperative outlook, we will soon emerge with a zoning resolution suitable for a new millennium.

On the other hand, if we succumb to the myopic, partisan, and intolerant attitudes that are the less attractive side of our political and civic, and entrepreneurial cultures, we will squander the opportunity for meaningful reform. I indicated earlier that I was aware that I might well be opening Pandora's box. I have done so because I think the state of our zoning warrants it and because after two decades of intimate involvement in the New York City's land use process, I am convinced we have the capacity to solve problems together. But I am also not naïve. I have mentioned several of the pitfalls and challenges these proposals are likely to encounter. I am sure there are many more I cannot anticipate. We will approach the coming debate with an open mind and a commitment to listen. But if the process becomes destructive and is hijacked by those who would consciously or not threaten our city's future, I will abort the zoning reform and discard these initiatives.

As the Chairman of the Planning Commission and Director of the Planning Department, my job is to keep an ear tuned to the small quiet voice of the city's future population and their interests, even in the face of deafening roars from those who are here now. More than eighty years ago our predecessors turned to zoning to shape the future of New York City. Those of us here today enjoy the benefits of their wisdom and concern for our well being. We can repay them by following their example of thinking not just of ourselves, but also of those who will come after us. Good zoning requires a careful balancing of competing needs and time horizons. That is a difficult task, but we are up to it. Thank you.

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New York City Zoning On Zoning

A review of this guide to the basic concepts of zoning and land use planning will provide necessary information and make the online Zoning Resolution easier to understand and apply.

An Introduction to Zoning Terminology

New York City is divided into three basic zoning districts: residential (R), commercial (C) and manufacturing (M). The three basic categories are further subdivided by the intensity of use, whether for retail or manufacturing categories, parking, building bulk or residential density. Zoning laws do not usually apply to public parks.

Development within these residence, commercial and manufacturing districts is governed by use, bulk and parking regulations. Each zoning district regulates:

- permitted uses;
- the size (bulk) of the building permitted in relation to the size of the lot;
- the required open space for residential uses on the lot or the maximum amount of building coverage allowed on the lot;
- the number of dwelling units permitted on the lot;
- the distance between the building and the street;
- the distance between the building and the lot line;
- the amount of parking required; and
- other requirements applicable to specific residential, commercial or manufacturing activities, including the size and placement of signs.

You can move directly to an explanation of any of the following terms or scroll through this page. In addition, you may look up Section 12-10 (DEFINITIONS) in [Text Online](#) for the legal definition of particular words as they are used in the Resolution.

Zoning Terms & Procedures:

[As-of-Right Development](#) | [Authorizations](#) | [Building Size](#) | [Certifications](#) | [Density](#) | [Discretionary Actions](#) | [Environmental Controls](#) | [Floor Area Ratio](#) | [Height and Setback Provisions](#) | [Lot Coverage](#) | [Non-Complying Use](#) | [Non-Conforming Use](#) | [Open Space / Open Space Ratio](#) | [Other Bulk Controls](#) | [Parking](#) | [Performance Standards](#) | [Special Permits](#) | [ULURP Process](#) | [Use Groups](#) | [Variances](#) | [Yards](#) | [Zoning Amendments](#)

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AS-OF-RIGHT DEVELOPMENT

Most development or use of unimproved land need meet only the provisions of the

Zoning Resolution to be granted a building permit as a matter of right. This means that a developer may build a structure "as-of-right" if the Department of Buildings is satisfied that the structure complies with the provisions of the Zoning Resolution and the Building Code. No action is required by the City Planning Commission under such circumstances. The developer simply files plans with the Department of Buildings and can begin construction upon issuance of a building permit.

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BUILDING SIZE

The maximum size (or bulk) of a building on a lot is determined by the floor area ratio (FAR) assigned in the Zoning Resolution to each zoning district. It is the principal bulk regulation controlling the physical volume of buildings. The floor area ratio expresses the relationship between the amount of usable floor area permitted in a building and the area of the lot on which the building stands.

A building can contain floor area equal to the lot area multiplied by the floor area ratio (FAR) of the district in which the lot is located. For example, a building to be constructed on a 10,000 square foot lot in a zoning district with a FAR of 10.0 could contain 100,000 square feet (10 x 10,000 s.f.) of floor area. Similarly, a building on a 6,000 square foot lot in a zoning district with a FAR of 6.0 could contain 36,000 square feet of floor area. The lowest FAR in any district is 0.5; the highest basic FAR is 15 in the highest density office districts. In certain districts, the basic floor area ratio permitted on a lot can be increased if public amenities such as arcades or plazas are provided.

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DENSITY

Applying only to residential developments, density refers to the number of people living in a certain area, generally expressed in terms of the number of families, households or housing units per acre. Density controls, one of several ways used to control the intensity of development, permit the city to plan in an orderly way for new schools, utilities and transit.

Population density is controlled by the requirement (which varies by district) that a specified number of square feet of lot area be provided per dwelling unit or room. The number of dwelling units or rooms allowed on a lot is a measure of the number of people who are likely to reside in each building.

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DISCRETIONARY ACTIONS

Certain developments request modification of zoning regulations to ensure a better building or site plan. Review is required of other projects because of certain characteristics, such as size, type of use or location.

Special Permits

Some development is allowed only by special permit granted either by the City Planning Commission with City Council review or by the Board of Standards and Appeals. Special permits, which are subject to the ULURP review process, are granted pursuant to specific findings set forth in the Zoning Resolution. There are two types of special permits: modifications of the use regulations and modifications of the bulk or parking regulations. In general, projects that have greater land use impacts or involve significant planning issues are under the jurisdiction of the City Planning Commission; localized issues are reviewed by the Board of Standards and Appeals.

Authorizations

At its discretion, the City Planning Commission, by resolution at a public meeting, may modify certain zoning requirements provided that specific findings set forth in the Zoning Resolution have been satisfied. Unlike the procedure for special permits, a public hearing is not required.

Certifications

For some as-of-right development, the City Planning Commission or the Chairperson of the City Planning Commission is required to administratively certify to the Department of Buildings that certain specified conditions set forth in the Zoning Resolution have been satisfied before a building permit may be issued.

Variances

Sometimes the peculiar shape or unusual topography of a parcel would cause unnecessary hardship were the owner required to comply with all the applicable regulations of the Zoning Resolution. In such cases, the Board of Standards and Appeals may grant variances from the use and bulk provisions of the Resolution to the extent necessary to permit a reasonable use of the parcel.

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LOT COVERAGE

Lot coverage is that portion of a zoning lot which, when viewed directly from above, is or would be covered by a building or any part of a building.

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OPEN SPACE / OPEN SPACE RATIO

In certain residence districts, residential development must provide open space on the zoning lot. In some districts, the amount of open space required is determined by the open space ratio (OSR) which expresses the percentage of total floor area of a building that must be provided as open space on a development parcel. For example, in a district with an open space ratio of 19.0, the amount of open space required on the lot would be 19 percent of the total floor area of the building. In other residence districts, open space is determined by yard regulations or by limiting development to a maximum lot coverage.

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OTHER CONTROLS AFFECTING BUILDING SPACING AND HEIGHT

Floor area, open space or lot coverage, and density controls seek to prevent an area from being overdeveloped and overcrowded. However, these controls by themselves cannot prevent structures that deprive people in other buildings and on the street of adequate light and air. To ensure the provision of adequate light and air, there are yard regulations, height and setback regulations, building spacing regulations and court regulations, among others. These regulations help determine the height, length and bulk of a building and its placement on the lot.

Yards

Yard regulations separate structures and provide space between them. Generally, a 30-foot rear yard is required for each residential building. Therefore, the space between the rear of two residential structures built opposite each other on the same block would be 60 feet -- providing the same access to light and air as for buildings fronting on typical 60-foot streets.

Height And Setback

Height and setback provisions also provide for light and a sense of openness in

amendments to the zoning map. A change to the zoning text and/or map may be necessary for new development, to recognize current conditions in the area or to facilitate public policy.

Review Process

Amendments may be filed by the Department of City Planning or the City Council, Borough Presidents, or any taxpayer, community board or borough board who may apply to the City Planning Commission for a change to the zoning text or maps. The Department of City Planning must certify that an application is complete in order to commence public review under the Uniform Land Use Review Procedure (ULURP) of the New York City Charter. Zoning map changes and special permit applications are subject to ULURP review which requires public hearings by the affected community board(s) and the City Planning Commission. Although text changes are not subject to ULURP, they are reviewed in a ULURP-like process. Amendments may be approved only after consideration by the affected community and borough boards, the Borough President, public hearings by the Commission and the City Council and final approval by the Council. Prior to the amendment of the New York City Charter in 1990, all changes to the Zoning Resolution were enacted by the now-defunct Board of Estimate.

Application to Non-conforming Uses and Non-complying Buildings

Regulations generally do not affect existing land uses or buildings which were legal when built under former codes or different classifications. Such uses are known as non-conforming uses. Buildings that conform with use regulations but do not comply with subsequently enacted bulk regulations (non-complying buildings) are subject to controls limiting their enlargement or conversion. In addition, they may not be reconstructed if substantially damaged. Otherwise, such bulk non-compliance or non-complying use may continue.

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For more information about zoning in New York City:

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- [History](#) -- Background of Zoning in New York City
- [On Zoning](#) -- Zoning Terminology
- [Format](#) -- Structure of the Zoning Resolution
- [Text Online](#) -- View Zoning Text in Adobe Acrobat format
- [Maps Online](#) -- View Zoning Maps in Adobe Acrobat format
- [Amendment Index](#) -- Text Amendments adopted since 1993

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Chairman's Greeting

As Chairman of New York City's City Planning Commission and Director of the Department of City Planning, I welcome you to our home page. We hope that it will provide helpful information on New York City and the work that we do to plan for its future.

- Joseph B. Rose



[Send a message to the Director of the Department of City Planning.](#)

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Mission Statement

The Department of City Planning is responsible for the City's physical and socioeconomic planning, including land use and environmental review; preparation of plans and policies; and provision of technical assistance and planning information to government agencies, public officials, and community boards. The responsibilities of the Director of City Planning, who also serves as Chair of the City Planning Commission, include advising and assisting the Mayor, the Borough Presidents, and the City Council in regard to all matters related to the development and improvement of the City, as well as assisting the Mayor in the preparation of strategic plans that have long-term implications for the City.

The Department is responsible for land use analysis in support of the Commission's review of proposals for zoning map and text amendments; special permits under the Zoning Resolution; changes in the City map; the acquisition and disposition of City-owned property; the acquisition of office space for City use; site selection for public facilities; urban renewal plans and amendments; landmark and historic district designations; and community-initiated plans under Section 197-a of the City Charter.

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Agency Accomplishments and Priorities

With the city's quality of life at its highest level in decades and its economy experiencing its most robust growth since the 1960's, City Planning is focusing its attention on major investments that can build on the success of the last four years. The Department has made substantial progress in advancing its four major policy goals: encouraging housing and economic development; improving the city's quality of life and preserving its neighborhoods; streamlining the land use regulatory process; and providing policy analysis and technical support for public officials, agencies and community boards.

Highlights of Recent Accomplishments

Theater District/Eighth Avenue. In August 1998, the City Council adopted City Planning's proposed zoning changes for Manhattan's Theater District. The zoning amendment is a carefully balanced plan to preserve and strengthen Broadway theaters and the Theater District. The new zoning allows 25 traditional Broadway houses -- most of which are landmarks -- to transfer their excess development rights to development sites within the District in exchange for a binding commitment to use, upgrade and maintain the theater building as a legitimate theater, and to dedicate a portion of the proceeds from the sale of development rights to the support of theatrical activity. To enhance the Eighth Avenue streetscape within the District, new urban design controls mandate more contextual development.

Lower Manhattan. A major objective of the Mayor's Revitalization Plan for Lower Manhattan has been achieved with the approval in August 1998 of City Planning's comprehensive zoning proposal. Creation of the new Special Lower Manhattan District simplifies and streamlines the zoning in the area generally bounded by City Hall Park, Battery Park City and the East River. The zoning change relaxes strict use controls that had inhibited the retail and service establishments needed to support a 24-hour community. New height and setback controls allow considerable design flexibility and, at the same time, encourage new development in keeping with the historic character of Lower Manhattan. Finally, new regulations for the waterfront will promote its integrated development and new open space opportunities.

Columbus Circle/Coliseum. To bring new life and activity to one of the city's most prominent gateways, the Mayor approved a plan in July 1998 for a new 2.1 million square-foot mixed use complex on the site of the former Coliseum at Columbus Circle. City Planning worked closely with the MTA on design guidelines for the site and with the Mayor's Coliseum Advisory Panel on the evaluation of development proposals. The complex will include new retail, office, residential and hotel uses, as well as a 1,000-seat theater for Jazz at Lincoln Center. In a related effort, City Planning completed a plan to transform Columbus Circle into one of the city's great public spaces by rationalizing and improving the flow of pedestrian and vehicular traffic. Now that the Department of Transportation has completed a successful test of the plan, city agencies will work with a community task force and civic groups on a detailed design for a new Columbus Circle and park plaza. Construction will be closely coordinated with development of the Coliseum site.

Downtown Flushing. In September 1998, the City Council adopted the Department's proposed zoning actions for Downtown Flushing in Queens. The Flushing community has experienced significant population and economic growth. The rezoning will provide new opportunities for housing, office, and retail development in an underused industrial tract west of the current business district. New development along the Flushing waterfront will be required to provide public access in accordance with a Waterfront Access Plan (WAP) adopted with the

rezoning. (The city's first WAP, for Northern Hunters Point in Long Island City, was adopted in 1997.) In addition, pedestrian studies are underway to enhance the streetscape and to link the Flushing business district to the waterfront development sites.

Adult Entertainment Establishments. A major quality-of-life accomplishment was the adoption in 1995 of zoning regulations that prohibit both concentrations of sex-related establishments and their presence in or near residential areas. Since that time, the Department has assisted the City in its response to a series of legal challenges that had delayed enforcement of the new regulations until the summer of 1998. Enforcement is now underway.

Brooklyn Rezoning. The Department's zoning actions in Brooklyn are focusing primarily on the northern part of the borough in order to expand opportunities for new residential and mixed-use development. Williamsburg and Greenpoint, in particular, are experiencing significant population growth, but new residential development is constrained by manufacturing zoning in much of the area. The Department has undertaken a review of manufacturing-zoned land in and around these communities. Several of these studies have been completed and the first of the rezoning proposals -- for the Williamsburg Bridge area -- has been approved by the City Council. Rezoning of areas in Cypress Hills and Vinegar Hill were also approved in 1998. Proposals for additional areas will be advanced later this year and next.

Staten Island Initiatives. The Department completed studies of two Staten Island special zoning districts in the past year. The first, an examination of development patterns in South Richmond, recommends zoning changes to better reflect the prevailing neighborhood character of one- and two-family detached homes. The proposal would limit the areas in which townhouses and semi-detached houses can be built. The second study, of the Special Hillside Preservation District on the north shore, recommends that its regulations be modified to better preserve the trees and vegetation that prevent erosion of the district's steep slopes. The Department expects to advance specific rezoning proposals for the two areas later this year.

Bronx Rezoning Actions. The emerging antiques district in Port Morris, formerly zoned for manufacturing, was rezoned in 1997 to allow for a mix of residential, commercial, industrial and institutional uses. The area is the first to be rezoned as a Special Mixed Use District, a new zoning designation also approved in 1997. Underused manufacturing areas around Hostos Community College were also rezoned to encourage expansion of educational, commercial and residential uses.

Hudson River Park. In October, the City Council approved the Department's proposed zoning change that allows construction of a public park from Battery Park to 59th Street along the Hudson River waterfront. The zoning amendment complements state legislation, adopted in September, that establishes the Hudson River Park and a Trust to oversee its development. Groundbreaking for the first section of the new park took place in October. The project will be the most significant addition to Manhattan's park infrastructure since the construction of Riverside Park and will place New York one step closer to the goal of completing an open space network around Manhattan island.

Airport Access. New York is the preeminent global city and its airports are vital links to the rest of the world. To make it faster and more convenient for passengers to reach these transportation hubs, City Planning, in partnership with a number of other agencies, has developed a proposal for direct rail access from lower and midtown Manhattan to LaGuardia Airport. The MTA is presently conducting a study of the Department's proposal to extend "N" train service to LaGuardia. The study will be followed by an environmental review and a solicitation of qualified proposals for

building the route.

Policy Goals and Initiatives

- **Housing and Economic Development**

To build on the recent accomplishments noted above, City Planning is pursuing a variety of initiatives to expand opportunities for new residential and commercial development.

These include preparation of several rezoning proposals for manufacturing and automotive districts appropriate for redevelopment, such as areas in the **Williamsburg** section of Brooklyn and along **Bruckner Boulevard** in the Bronx. In Manhattan, the Department is developing rezoning options for **Northern Tribeca**, currently zoned for manufacturing, to better reflect its increasing popularity as a residential neighborhood (the southern part of Tribeca was rezoned in 1995).

The Department is preparing an application for **citywide zoning text amendments to facilitate housing for the elderly**. The amendments would modify regulations affecting housing for the elderly in order to encourage both not-for-profit and market-rate construction of independent senior housing and assisted living developments. The Department is also developing recommendations to revise **commercial use and parking regulations** citywide to reflect changes in such uses since adoption of the current zoning regulations in 1961.

In 1996, the City Council voted down City Planning's proposed **Retail and Industrial zoning text amendments** which would have allowed large supermarkets and discount retail stores to locate in certain manufacturing zones in the City. In the intervening time, large retail developments have continued to proliferate in nearby suburban areas. The City needs to capture its share of the sales taxes and jobs created by these establishments. City Planning will work with the City Council to develop an alternative proposal that would address this need.

- **Quality of Life and Neighborhood Preservation**

The Department initiates zoning actions aimed at preserving the character of existing neighborhoods as well as urban design and transportation studies to relieve vehicular congestion, enhance the pedestrian environment, and improve the quality of life throughout the City.

In **Chelsea**, the Department is working with Manhattan Community Board 4 to implement a rezoning in accordance with the community's plan, previously approved by the City Planning Commission and the City Council pursuant to Section 197-a of the City Charter. The rezoning would require new development to be consistent in scale and character with surrounding development in an historic district and other well established areas, and would create opportunities for new housing within areas now zoned for manufacturing and at selected intersections near mass transit.

Other neighborhood preservation initiatives underway include proposals to modify the **Special South Richmond Development District** and the **Special Hillside Preservation District** in Staten Island, and to rezone portions of **Park Slope** in Brooklyn and **Ridgewood** in Queens. The Department is also drafting a zoning text amendment that would revise **signage regulations for manufacturing districts** to limit their impacts on

nearby roadways and residential areas.

To improve traffic circulation and the pedestrian environment, the Department is completing a number of studies to extend the greenway/bikeway network, including **Soundview** in the Bronx, the **Harlem River waterfront** in Manhattan, **Laurelton-Cross Island** in Queens, and the **North and South Shores of Staten Island**. Examples of other studies to be released in the coming year include the **Long Island City Air Quality Study**, the **Midtown Manhattan** and **Malcolm X Boulevard pedestrian studies**, and the **Brooklyn Retail Corridors Study**.

- **Regulatory Reform**

In accordance with City Charter and Uniform Land Use Review Procedure (ULURP) regulations, the Department of City Planning receives applications for actions related to the use of land from both public and private entities. Once an application is certified as complete, it is referred for public review and City Planning Commission consideration. DCP works to simplify the review process and to remove regulatory impediments to appropriate development.

To simplify the land use approval process and to create a service-oriented environment for private applicants, government agencies and the public, the Department is steadily increasing the percentage of land use applications reviewed within one year of receipt -- 77% in Fiscal Year 1998. As a result of continued procedural improvements, the Department also eliminated 45 percent of its backlog of applications from previous years. Recent procedural improvements include: streamlined reviews of city land disposition, publicly assisted housing and urban renewal applications; making a newly revised and simplified ULURP form available on computer disk; and eliminating duplicative reviews of alterations to landmarked buildings. The City Council also approved the Department's zoning text amendment extending the use of the (E) designation on zoning maps, facilitating the rezoning of sites with prior industrial uses.

In November, the Department achieved a major customer service milestone with the addition to this home page of the New York City Zoning Resolution -- text and maps together with explanatory material and an index of new and amended sections. Users will be able to download sections of the zoning text or maps for ULURP applications, research and other purposes.

Other regulatory reform proposals under review include revisions to the city's Waterfront Revitalization Program (WRP) and the City Environmental Quality Review (CEQR) process. The WRP changes would simplify and clarify the standards for assessing the consistency of new waterfront developments with the city's policies for waterfront use. Proposed revisions to the CEQR Type II list would simplify the development of many projects by expanding the number of land use actions that have no significant environmental impacts and therefore do not require environmental review.

- **Policy Analysis and Technical Support**

City Planning regularly conducts analyses of demographic, housing, transportation, community facility, and open space trends in support of its planning and regulatory functions. The Department also provides technical support for the City Census Project, and produces reports mandated by the City Charter or required for federal housing and community development grant funds. As technical advisor to the New York City 2000 Census Project, the Department is working with the Mayor's Office and the U.S. Bureau of the Census to ensure an accurate and thorough count of the city's population. DCP's responsibilities include an evaluation of the Census Bureau's building

address data and housing unit estimates. The Department also supports federal and city outreach programs by providing the data and analysis needed to identify priority areas for special enumeration efforts.

Among the mandated annual reports to be released in 1999 are: the "Citywide Statement of Needs", which describes the facilities that city agencies propose to open, close or alter significantly in size; "Statements of Community District Needs", with supporting demographic and land use data supplied by DCP; the "Annual Report on Social Indicators", providing data on economic, demographic, social, physical and environmental conditions in the City; and the "Consolidated Plan", which details the city's planned allotment of its federal assistance for housing, homeless and supportive housing services, and community development programs.

Other forthcoming technical reports include a database created to promote public use of privately owned, publicly accessible plazas and other spaces created under zoning provisions; an update and expansion of the Department's community facility database, used primarily in connection with the city's "fair share" siting process; and "New Housing 1993-1998", the latest in a series of reports on housing unit completions by borough and community district.

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New York City Zoning History

The first New York City Zoning Resolution was created in 1916 in response to overwhelming development in Lower Manhattan.

Technical restraints that had traditionally limited building height vanished with the introduction of steel beam construction techniques and improved elevators. The Manhattan skyline was beginning to assume its distinctive form. Multifamily residences, particularly in Manhattan, were growing in popularity and new retail districts were springing up to meet new demands. Office space was expanding; by 1900, New York City had become the financial center of the country.

Although the concept of enacting a set of laws to govern land use was revolutionary, the time had come for the city to regulate its physical growth. The huge shadow cast by the 42-story Equitable Building, built in 1915 on lower Broadway, deprived neighboring properties of light and air. Warehouses and factories were intruding into fashionable retail areas on lower Fifth Avenue.

The pioneering 1916 Zoning Resolution, though a relatively simple document, established height and setback controls and separated what were seen as functionally incompatible uses -- such as factories -- from residential neighborhoods. The ordinance became a model for urban communities throughout the United States as other growing cities found that New York's problems were not unique.

But while other cities were adopting the New York model, the model itself refused to stand still. New transportation systems changed land use patterns and created traffic and parking problems never dreamed of in 1916. The Resolution was constantly amended in response to the changing needs of the changing city -- new technology, changes in land use, population shifts and a continuing influx of immigrants who needed housing. The amended Resolution also had to meet the New York State requirement that it be in accordance with a "well-considered plan."

In 1926, the U.S. Supreme Court validated the zoning ordinance of Euclid, Ohio, in the landmark case of *Village of Euclid v. Ambler*, finding that it rested on a comprehensive plan for maintaining, protecting and upgrading the community. The Court recognized that zoning is an appropriate extension of the community's authority to pass laws related to protecting the public health, safety, morals and general welfare. The historic opinion also contained a far-seeing passage suggesting that zoning must evolve to meet the changing needs of changing times: ". . . the meaning of constitutional guarantees never varies, the scope of their application must expand or contract to meet the new and different conditions which are constantly coming within the field of their operation."

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The scope of the 1916 Zoning Resolution did expand greatly to meet the new and different conditions but, after 45 years of rapid changes in the country and the City, it was clear that there was a need for a total reconsideration of zoning in New York City.

The current Zoning Resolution was enacted after lengthy discussion and public debate and took effect in 1961. It coordinated use and bulk regulations and incorporated parking requirements. It introduced the concept of incentive zoning by offering a bonus of extra floor area to encourage developers of office buildings and apartment towers to provide public spaces.

The new Resolution was a flexible document but it also had some shortcomings which surfaced with the experience of time. New approaches have been developed since passage of the 1961 ordinance to deal with some of the problems that have emerged. Many planning tools including incentive zoning, contextual zoning, waterfront zoning, mixed use zoning, special districts, air-rights transfer and restrictive covenant techniques have been used to make zoning more responsive and sensitive to the changing needs of New York City and the people who live and work here.

Cities never stand still, nor should zoning.

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For more information about zoning in New York City:

- [Introduction](#)
- [History](#) -- Background of Zoning in New York City
- [On Zoning](#) -- Zoning Terminology
- [Format](#) -- Structure of the Zoning Resolution
- [Text Online](#) -- View Zoning Text in Adobe Acrobat format
- [Maps Online](#) -- View Zoning Maps in Adobe Acrobat format
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**Appendix B:
Detroit's Consultant Contract**

EXHIBIT A

SCOPE OF SERVICES

The professional services to be performed are of the following nature and are to be provided in five (5) phases during the course of eighteen (18) months. The first three (3) phases shall be completed by 30 June 1998; the final two (2) phases shall be completed at the end of the eighteenth (18th) month after the effective date of the contract.

Whenever this contract makes reference to "Clarion," it shall be understood that the reference applies to the entire Clarion team. References to City Planning Commission (CPC) staff may be understood to include other members of the City's interdepartmental working group, as appropriate.

Phase 1—Project Initiation

1. Clarion shall meet with CPC staff to discuss overall project goals, land issues and to finalize the project work plan and schedule.
2. Clarion shall identify key documents, codes, and other materials that the city will provide for review by the consulting team. The City shall provide the current Zoning Ordinance on computer disk to Clarion and shall provide hard copies and computer disk copies of all ordinances already developed by CPC staff but not yet enacted by City Council (Solid Waste, Gas Stations, Antennas, Downtown Childcare, Residential-Industrial, Retail, etc.).
3. CPC staff shall escort Clarion on a tour of the city to view manifestations of key issues.
4. Clarion shall conduct a detailed review of adopted plans, codes, and policies.
5. Clarion shall schedule its work in Detroit to coincide with a regularly scheduled meeting of the City Planning Commission; Clarion shall appear at a CPC meeting for a get-acquainted session with Commissioners.
6. Clarion shall engage in an intensive discussion of land regulation issues with CPC staff and staff from the interdepartmental working group as well as other City officials, as needed. CPC staff shall circulate a survey questionnaire to appropriate governmental offices on the strengths and weaknesses of existing code provisions to facilitate production of an analysis and record of strengths and weaknesses of the current code.
7. Clarion shall interview other Zoning Ordinance stakeholders, including developers, decision-makers, citizen groups, and elected officials, on land regulation issues, as needed.
8. Clarion shall review records of the CPC, Buildings & Safety Engineering Department, and Board of Zoning Appeals. CPC staff shall facilitate the release of such records.
9. Clarion shall suggest a public participation process, and, together with CPC staff, shall finalize the public participation and education process. CPC staff shall be responsible for the preparation of database of names and addresses for public participation.

Written Products to Be Delivered by Clarion

- A. Detailed work plan and schedule

Phase 2—Code Diagnosis and Public Workshop

1. Clarion shall prepare a written diagnosis of the strengths and weaknesses of the Zoning Ordinance, including but not limited to: reformatting and streamlining the Zoning Ordinance to increase ease of use; using graphics or tables or figures when appropriate and helpful; eliminating conflicts with new laws and court rulings; addressing standards to guide decision-making by adding a site plan review process; and revising the non-conforming use regulations. CPC staff shall review the code diagnosis and provide consolidated written comments from the interdepartmental working group.
2. Clarion shall appear at and participate in a public workshop on the diagnosis. The workshop shall be held at a special meeting of the CPC, possibly in the community.

Written Products to Be Delivered by Clarion

- A. Ten (10) copies of written code diagnosis.
B. Summary of public workshop comments.

Phase 3—Annotated Outline and Public Workshop

1. Clarion shall draft a detailed, annotated outline for a revised Zoning Ordinance.
2. Clarion shall appear at and participate in a public workshop on the proposed outline. The workshop shall be held at a special meeting of the CPC, possibly in the community. CPC staff shall review the outline and provide consolidated written comments from the interdepartmental working group.

Written Products to Be Delivered by Clarion

- A. Ten (10) copies of annotated outline of revised Zoning Ordinance.
B. Summary of public workshop comments.

END WORK FOR FIRST BUDGET YEAR, 30 June 1998**Phase 4—Draft Zoning Ordinance Amendment and Public Workshop**

1. Clarion shall serially develop and submit 1st draft of Zoning Ordinance revisions in modules to CPC staff.
2. Clarion shall review draft ordinances already developed by CPC staff, but not yet adopted by City Council, and incorporate those texts, as appropriate, into 1st draft of amendment. CPC staff shall provide materials to be included in appendices of ordinance on disk for incorporation into draft of amendment.

3. CPC staff and interdepartmental working group shall provide comment on modules to Clarion. CPC staff shall provide consolidated written comments from city staff.
4. Clarion shall make revisions as needed for 2nd draft of Zoning Ordinance amendments.
5. CPC staff shall coordinate a broad publicity initiative on proposed revisions.
6. Clarion shall appear and participate at a public workshop to review 2nd draft. Workshop may be held in the community and may be a special meeting of the CPC.

Written Products to Be Delivered by Clarion

- A. Ten (10) copies of 1st draft of Zoning Ordinance amendments.
- B. Ten (10) copies of 2nd draft of Zoning Ordinance amendments.
- C. Summary of public workshop comments

Phase 5—Final Recommendations and Adoption Process

1. Clarion shall make revisions to 2nd draft in preparation for CPC public hearing.
2. Clarion shall attend CPC public hearing on 3rd draft to make presentations and answer questions, as needed.
3. Clarion shall attend a second CPC meeting, for clarifications, questions and answers; the Commission's vote is taken at this second meeting.
4. Clarion shall make revisions to 3rd draft in preparation for ordinance submission to and introduction by City Council.
5. Clarion shall attend the City Council Discussion and make presentation on fourth/final draft.
6. If the City determines that Clarion's presence is required at additional meetings of the City Council, the City reserves the right to request such additional travel and consultation; the City shall adjust the budget to reimburse any such travel, consultation, and miscellaneous expenses.

Written Products to Be Delivered by Clarion

- A. Ten (10) copies of 3rd draft of Ordinance.
- B. Ten (10) copies of 4th/final draft of Ordinance and one computer disk copy of final revisions, including illustrations, graphics, and appendices.

END OF PROJECT 30 June 1999.

EXHIBIT B**FEEES AND REIMBURSABLE EXPENSES****I. General**

The *Contractor* shall be paid for those *Services* performed pursuant to this *Contract*. The *City* agrees to pay the *Contractor* for the proper performance of the *Services*, compensation of One Hundred Ninety-Seven Thousand, Five Hundred Five Dollars and 00/100 (\$197,505.00), inclusive of all expenses. With the permission of the *City*, funds may be shifted among phases, provided that total expenses do not exceed One Hundred Ninety-Seven Thousand, Five Hundred Five Dollars and 00/100 (\$197,505.00). Payments shall correspond with the following tasks described in detail in Exhibit A:

Phase 1: Project Initiation and Scoping	\$29,815
Phase 2: Code Diagnosis	\$24,265
Phase 3: Annotated Outline	\$20,495
Phase 4: Code Drafts	\$90,715
Phase 5: Final Code/Adoption Process	\$32,215

The *City* shall not be liable for any delay in payment to *Contractor* for *Contractor's* failure to comply with this billing provision and the provisions of sections 7.01 and 8.01 herein.

**Appendix C:
San Jose's May 24, 1999 Status Report to Council**

CITY OF SAN JOSE

TO: Honorable Mayor and
City Council

Post-It® Fax Note	7671	Date	8/4/99	# of pages	3
To	Christina	From	Jean Hamilton		
Co./Dept.		Co.			
Phone #		Phone #	408 277-8556		
Fax #	312 927-5619	Fax #			

SUBJECT: COMPREHENSIVE ZONING
CODE UPDATE PROGRAM -
STATUS REPORT
[C.C. Referral No. 3-16-99-7b(5)]

DATE: May 24, 1999

APPROVED:

DATE:

INFORMATION

BACKGROUND

The City Council directed the Department of Planning, Building and Code Enforcement to work on a comprehensive update of the City's Zoning Code. San Jose's original Zoning Code became effective in 1929 and since that time, various sections have been revised to address specific topics in a piecemeal manner over 250 times. The majority of the revisions have occurred over the last 20 years. Although each code revision has accomplished specific objectives, it has resulted in a code that is organized in an outdated format making it difficult and cumbersome to use.

The primary purpose of the comprehensive update of the City's Zoning Code is to create a document that is easy to read, understand and use. Other objectives of the Zoning Code update are to:

- Simplify and improve the internal organization of the code
- Update land use provisions to reflect modern day issues
- Amend the regulations where appropriate to be compatible with adopted development guidelines, and
- Better align the zoning districts and regulations to implement the San Jose 2020 General Plan.

STATUS REPORT

The Zoning Code Update Work Program consists of four phases:

- **Phase I: Issue Identification** - Staff convened focus groups with neighborhood residents, business owners, industry leaders, and City staff to identify major policy issues that need to be addressed in the Zoning Code Update. The range of issues identified include: providing noise standards for residential areas, increasing the public hearing notification

Honorable Mayor and City Council
 Zoning Code Update Program
 May 24, 1999
 Page 2

for new development in residential areas, codifying policies such as the 24 hour use policy, and modifying industrial height regulations and loading dock regulations to better reflect the needs of industrial users.

- **Phase II: Policy Direction and Framework Establishment** - This phase included the formulation of the major broad policy questions related to issues identified in Phase I; development of alternative approaches to address the issues; and preparation of a draft Table of Contents as a framework for discussing and resolving each of the identified major policy questions. A consultant, Blayne Dyett, was hired to assist staff to compare the General Plan, design guidelines, and current code. The consultant also developed an annotated outline for staff to consider in developing a framework for the new code. Staff has held a series of study sessions with the Planning Commission to keep them informed of staff's progress in addressing the major policy questions.

Staff has prepared the draft Table of Contents and identified an approach to address each of the major policy issues. Staff is currently completing a *conceptual code* which will become the basis for the City Attorney's Office to prepare the *administrative draft code*. The conceptual code is expected to be completed by the end of July 1999.

Current Planning staff levels for the Code Update include a Senior Planner and a Planner I. Both staff positions have additional responsibilities in the Code Revision Section of the Planning Services Division of the Department of Planning, Building, and Code Enforcement. With the recent work required on separate code revisions to the existing Zoning Code, staff has been pulled away from its work on the Update; however, it is expected that staff can return to the drafting of the conceptual code in June. Once complete, staff will present the substance of the conceptual draft code to the City Council for support of the concepts.

- **Phase III: Draft Code** - The City Attorney's Office has the lead in preparing an administrative draft Zoning Code which could begin in August 1999. The environmental review process for the revised code should be initiated in this phase. A consultant is expected to be hired to prepare an Initial Study.
- **Phase IV: Public Review and Approval** - Focus groups would be reconvened to provide public review and comment on the administrative draft code. The administrative draft code would be referred to the Planning Commission for a study session and public hearing. The Planning Commission would make a formal recommendation to the City Council. A public hearing before the City Council would complete the Zoning Code Update process.

Honorable Mayor and City Council
Zoning Code Update Program
May 24, 1999
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NEXT STEPS

Presentation of the conceptual draft code to City Council is anticipated to occur at three consecutive Council meetings. These presentations provide an opportunity for the City Council to validate or modify the direction of the conceptual code before completion of the administrative draft code. Staff is preparing to present the substance of the conceptual draft code in three key areas, including organization and structure, administration and permitting, and land use regulations. These presentations are expected to be given to Planning Commission and City Council in September and October.

COORDINATION

The preparation of this status report has been coordinated with the City Attorney's Office.

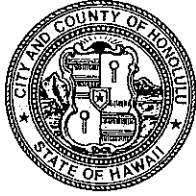
James R. Derryberry, Director
Planning, Building and Code Enforcement

Council Update Info Memo.doc
JRD:jmh
ward97/zonupdt/workprogram

**Appendix D:
Honolulu's June 26, 1998 Report
to Planning Commission**

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET • HONOLULU, HAWAII 96813
PHONE: (808) 523-4414 • FAX: (808) 527-6743



JEREMY HARRIS
MAYOR

JAN NAOE SULLIVAN
DIRECTOR

LORETTA K.C. CHEE
DEPUTY DIRECTOR

August 11, 1999

Ms. Christina Sellis
Metropolitan Planning Council
25 E. Washington Street
Suite 1600
Chicago, Illinois 6602

Dear Christina:

Enclosed per your request is a copy of the Department of Planning and Permitting's (formerly the Department of Land Utilization) transmittal report to the City Planning Commission, which provides a general overview of the bill to amend Honolulu's Land Use Ordinance (LUO). The six goals established for the project are clearly articulated.

This overview was accompanied by a more in-depth narrative report of the specific amendments being proposed, and the bill itself.

I hope this proves useful to you.

Very truly yours,

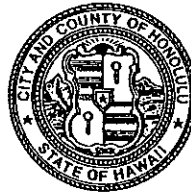
A handwritten signature in cursive script, appearing to read "Geri Ung".

Geri Ung
Planner

DEPARTMENT OF LAND UTILIZATION
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 523-4414 • FAX: (808) 527-6743

JEREMY HARRIS
MAYOR



JAN NAOE
DIR
LORETTA
DEPUTY

June 26, 1998

(BAM)

MEMORANDUM

TO: CHARLIE RODGERS, CHAIR
AND MEMBERS OF THE PLANNING COMMISSION

FROM: JAN NAOE SULLIVAN, DIRECTOR
DEPARTMENT OF LAND UTILIZATION

SUBJECT: A BILL TO AMEND CHAPTER 21, REVISED
ORDINANCES OF HONOLULU, LAND USE ORDINANCE

Transmitted for appropriate action are my report and recommendations regarding proposed amendments to Chapter 21, Revised Ordinances of Honolulu, the Land Use Ordinance (LUO). These amendments are proposed for the purposes of streamlining the land use permitting process.

There are six specific streamlining goals which the proposed amendments are intended to achieve. These are:

Goal #1: Simplify the Process

Goal #2: Reduce Permit Processing Time

Goal #3: Reduce the Number of Permit Types

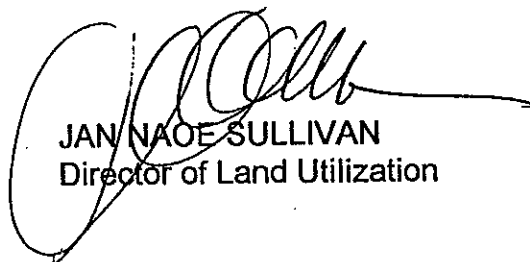
Goal #4: Reduce the Number of Permits

Goal #5: Eliminate Unnecessary Regulations

Goal #6: Refine DLU's Role in Land Use Permit Review and Processing

Charlie Rodgers, Chair
and Members of the Planning Commission
June 26, 1998
Page 2

A draft bill for an ordinance is also attached for your review. We hope for your favorable consideration in this matter.



JAN NAOE SULLIVAN
Director of Land Utilization

JNS:jms
luopc.gu

Attachment

cc: Chair Mufi Hannemann

A PROPOSAL TO AMEND THE LAND USE ORDINANCE (LUO) RELATING TO STREAMLINING

Rationale for Proposed Amendments

Purpose

The City and County of Honolulu, like other local government jurisdictions, is under intense pressure to improve the quality and effectiveness of its land use permitting services, and to do this with less resources.

In an environment of severe economic downturn, competing priorities, budget constraints and a diminishing revenue base, the City has found it necessary to revisit its land use regulatory climate, looking for a better, more cost-effective approach. This approach must be centered on providing improved and sustainable service to every applicant for a permit – from the smallest projects which are approved over the counter to the largest requiring multiple public hearings.

The short-range and immediate purpose of the Department of Land Utilization's (DLU) bill for an ordinance is to streamline the development process. However, this is not simply a streamlining task, but rather an integral part of a more encompassing *program* of regulatory reform.

This three-part program involves the following:

- Streamlining to create a process of permitting that is both efficient and effective.
- Restructuring to cross-train and maximize the professional skills of DLU's staff.
- Automating the permit management and tracking system.

Background

Bill 34 (96), which was passed by the City Council in October, 1996, made various amendments to the LUO for the purposes of streamlining. These amendments were proposed in collaboration with an advisory group of approximately 80 members. In November of 1996, we informed group members that the department would continue to work on other areas of the LUO. This bill for an ordinance is a follow-up on that initial effort.

On August 8, 1997, a consultant team headed by McCorriston Miho Miller Mukai, Attorneys at Law, and Kusao & Kurahashi, was hired to further evaluate DLU's permit policies and processes. A copy of their report is attached as Exhibit A.

The Department established six specific streamlining goals which LUO amendments, as a whole, were to achieve:

Goal #1: Simplify the Process

- Goal #2: Reduce Permit Processing Time
- Goal #3: Reduce the Number of Permit Types
- Goal #4: Reduce the Number of Permits
- Goal #5: Eliminate Unnecessary Regulations
- Goal #6: Refine DLU's Role in Land Use Permit Review and Processing

As part of their scope of work, the consultants were asked to analyze model zoning ordinances in other jurisdictions. Appendix A to their report contains an interesting comparative analysis of 11 zoning ordinances which the American Planning Association (APA) rates as "highly-regarded" and "well-written".

Honolulu's LUO does not fare badly by comparison, but the analysis does illustrate areas where streamlining can occur. For example, the LUO has fewer permitted uses than the average, that is, more permits are required for various uses than in other jurisdictions. The LUO's treatment of parking and loading requirements is also much more complicated than in other zoning ordinances. (Refer to Table 1.)

In addition to the consultant's study, the Department researched numerous other jurisdictions to see what they had done to streamline, re-structure, and automate their land use permitting systems.

In every case, their motivation and sense of urgency were founded in circumstances remarkably similar to this City's current situation. Since the 1980's, their land use regulatory climate had grown increasingly complex. Customer frustration and dissatisfaction with the delivery of city services in this arena were increasing. The local economy had taken a downward turn, and each was searching for innovative ways to support and stimulate their economy.

Three examples proved particularly relevant: San Diego, CA., Denver, CO., and Cincinnati OH. In each city, they were faced with the task of balancing environmental quality with economic vitality, and they found that one crucial task was improving a cumbersome, complicated, and inefficient land use permitting system.

Each city faced the same set of challenges: determining where the problems were, where changes should occur, what factors inhibited change, and what technology should support change.

A major re-engineering of their permit processes was the first step in each case. Although they approached this step in different ways, Denver's stated approach summarizes it best: "develop lists of activities and functions to be eliminated, modified or consolidated, because they do not add value to customers and stakeholders."

In meeting the six streamlining goals, the amendment package will ultimately produce public benefits to all applicants seeking any type of City land use approval. It should be noted, however, that this package is oriented toward, and seeks specifically to benefit, the

TABLE 1
COMPARISON OF COUNTY ZONING CODES¹

County/ Population	Zoning Districts # of Districts	Parking # of Uses	Principal Permitted Uses	Land Use Processes ²
Honolulu, Hawaii 836,000	26	92	75	1
Bellevue, Washington 115,525	30	33	171	1
Boulder, Colorado 114,287	19	95	95	1
Cecil County, Maryland 80,374	18	82	155	5
Coral Gables, Florida 39,916 (est.)	8	107	252	2
Denver, Colorado 502,000	34	222	170	5
Jefferson County, West Virginia 40,437	5	32	28	6
Lake County, Illinois - Draft Unified Development Ordinance 591,175	15	56	229	7
Plano, Texas 183,584	26	75	138	5
Portland, Oregon 480,824 (est.)	26	32	32	9
San Bernardino, California 322,476	16	28	6 ³	9
San Diego, California 2,498,000	44	9	282	12

¹ Because each of the zoning codes referred to above are formatted differently and utilize different terminology and concepts, they are not set up for an exact comparison with one another; accordingly, the numbers in the above table represent in many cases the best estimates thereof.

² The 12 processes are: zone changes, plan review use permits, conditional use permits, special district permits, cluster permits, planned development-resort / planned development-commercial projects, zoning adjustments, waivers, site plan review permits, existing use permits, site development plans, and planned development housing.

³ There are only 6 principal permitted under the San Bernardino zoning code uses because all other uses require a land use review permit or a conditional use permit.

average homeowner, the small business owner, and contractors and developers specializing in small to mid-sized projects. Collectively, the amendments target regulatory "roadblocks" which have proved onerous to these applicants. To illustrate this, anecdotal examples, based on actual experiences, preface each chapter of the consultant's report.

In addition, the department is preparing a second streamlining proposal, which will be transmitted under separate cover, to significantly restructure regulations for the development of larger projects. This amendment to existing Article 6 of the LUO (Optional Development Regulations) will focus on the reform of regulations affecting applicants for projects with a broader "community development" objective.

Summary of Specific LUO Amendments

Taken as a whole, this bill for an ordinance proposes significant departures in the way the City's permitting system is now structured and administered by DLU. Major proposed changes are highlighted for your reference in the box to the right. There are also numerous other changes which, when taken individually, are minor in nature. Collectively, however, these amendments would especially benefit applicants for small projects, and assist DLU in re-structuring and automating the permit system.

- Existing LUO Article 8, Administration and Enforcement, would be amended to establish two basic application processes: Major and Minor. There would be only two time-frames for permit processing: 90 days for major permits and 45 days for minor. (Multi-permit projects would be processed within the maximum time period specified for any one of the required permits.)

The Department would be required to process all applications within these time periods and, failure to do so, would result in automatic approval, unless the applicant approves a time extension.

- Existing LUO Article 3, General Development Standards, would be amended to include common potential "nuisance" conditions relating to noise, lights, and other impacts associated with certain

HIGHLIGHTS:	
	Application processes restructured: major, minor (and multi-permit).
	90 day/45 day processing times; automatic approval , if no action taken.
	4 permit types eliminated.
	Discretionary approvals reduced.
	Special District permits streamlined; criteria for creating new Districts clarified.
	Categories for off-street parking reduced from 92 to 68.
	Number of "conditions" on all application types reduced.
	Number of permitted uses increased in certain zoning districts.
	Application review and plans-checking functions clarified and simplified.

uses -- outdoor recreation facilities, group living facilities, meeting facilities, day care facilities, and new industrial or commercial developments -- when they are adjacent to country, residential, apartment, apartment-mixed-use, and resort districts. This is a formatting change which eliminates repetition of these conditions throughout the LUO, and which serves to clarify requirements for the applicant.

3. A new article, titled Specific Use Development Standards, would be added to consolidate all development and design standards for specific uses. This would include standards for conditional uses, and permitted uses with conditions.
4. Amendments to the LUO would be made to reduce the number of discretionary permits processed by the Department. The proposed concept is to increase the number of permitted uses, with specific conditions relating to potential impacts, when appropriate, so that only a building permit is required. This would not only simplify the permitting process for a broad segment of applicants, but would serve to reduce the permit review workload for the Department.
5. All existing Zoning Adjustment provisions would be consolidated into one section for ease of reference. Two new adjustments would be added to deal with situations where a minor deviation from regulations could be permitted to meet the basic intent of the LUO (flag lot access and roof-top designs). In addition, an intent and purpose section and specific criteria for the approval of zoning adjustments by the Director have been added for clarity.
6. A new table would consolidate all Off-Street Parking Requirements (excluding those requirements applicable to the BMX-4 and Waikiki Special districts), reduce the number of use categories which require parking standards, and provide a generally consistent standard for each use category.
7. Existing LUO Article 7, Special District, would be amended to substantially streamline the permitting process in the seven districts. This would be accomplished in three ways: (1) eliminating the "exempt" category from Special District tables (this reflects existing practice, since exempt projects are reviewed at the building permit stage and are not subjected to the more significant design review required for other projects); (2) changing some major permits to minor (principally those dealing with changes to an existing structure); and (3) eliminating some minor permits for projects that have no significant impacts on the unique features of the established districts. A second proposed amendment would clarify that future special districts should be created only for large geographical areas with unique historic and/or cultural preservation needs.
8. A number of amendments would be made to various LUO articles to make it clear that the Department is not responsible for enforcing numerous, and often highly-technical, permit requirements of other agencies. In this sense, the streamlining concept puts the burden of meeting legal requirements on the applicants. It is clearly not appropriate for the Department to assume expertise in certain areas, nor to delay an applicant's permit processing because of other agencies' requirements.

9. Various amendments to the LUO would be made to expand the list of permitted uses, that is, uses which would be allowed, without any discretionary permits or special review. Again, this would ease the applicants' regulatory burden, and it would also permit the Department to focus its resources on major development proposals of significant impact to the City.

For example: Car washing, mechanized, would be added as a permitted use in the B-1 zoning district. With three development standards to mitigate potential impacts, car washing is appropriate in the B-1 district near apartment zoning districts.

10. Various amendments to the LUO would be made to facilitate plans review, which would benefit both applicants and the Department. Most of these proposals are the result of the consultant's interviews with departmental staff, and examples include clarifying the definition of "floor area" and deleting the existing requirement that additional parking and loading spaces must be provided when a change in the use of a structure occurs, even if no increase in floor area is involved.

Finally, municipalities embarking upon regulatory reform have had to deal with the difficulty of balancing streamlining goals with the need for meaningful public input on impending land use changes. This bill for an ordinance strikes this balance in three basic ways: (1) it reduces public hearing requirements for those uses of a relatively minor impact when they can be regulated by objective, measurable standards; (2) it simplifies and reduces the costs of notification; and (3) it increases opportunities for Neighborhood Board participation and public hearings for those uses with potentially major community impacts.

Public Workshops

Two public informational workshops were held on the proposed LUO streamlining amendments (June 17 and 18, 1998) and five changes -- not reflected in the consultant's report (Exhibit A) -- are now being recommended by the Department, as follows:

1. No amendments are being proposed by the Department to processing times or procedures for Group Living Facilities. This use, which is currently a Conditional Use Permit, Type 2, would be processed as a "Conditional Use Permit, Major" (90 days and a public hearing), just as it is now. The consultant's report recommended a change to a "minor permit" and an optional public hearing. The Department has concluded that a public hearing is appropriate for this use, because of potential impacts within the community.
2. Golf courses would be allowed additional time in which to obtain grading permits (from one year now to three years). Under current procedures, if a grading permit is not obtained within one year of the required rezoning, or the grading permit that was issued either expires or lapses, the golf course would require Planned Review Use (PRU) approval. Extending the time period is considered appropriate, since the one-year period has caused hardships for applicants.

3. New provisions would be added to permit parking spaces for bikes and bike racks in required yards. These provisions are intended to encourage businesses to consider parking and storage needs for both automobiles and bicycles.
4. It is proposed that the existing commercial floor area ratio (FAR) limitation currently indicated by a superscript "1" on existing LUO Table 5.5-A ("Industrial and Industrial Mixed Use Districts, Permitted Uses and Structures ") be deleted for the following uses: broadcasting stations, business services, data processing facilities, hotels, meeting facilities, and photographic processing. The Department feels that it is not reasonable to impose this limitation on these commercial uses in the IMX-1 district, where a mix of uses is intended, when no such limitation exists for the uses in the I-2 Intensive Industrial District.
5. No amendments to the existing legislative intent of Special Districts will be proposed. The consultant's report recommended limiting the creation of new Districts to only large geographical areas with unique historic and/or cultural features, with the purpose of reducing future discretionary permits. The Department has concluded that current LUO provisions governing the creation of new Special Districts are adequate and reasonable to carry out the policy intent of this type of district.

(Note: The proposed changes discussed above, although not discussed in the consultant's report, are reflected in the new Master Use Table (Exhibit 3 of the report).