

Bringing Zoning up to the Automobile Era

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● IN a period in which zoning practice is undergoing an advance second in extent only to that by which, nearly forty years ago, it emerged from largely fragmentary regulation of nuisances and became comprehensive districting, it is difficult to do more than report what is happening. Much of this paper, therefore, may be said to consist of reiterating the established and elucidating the obvious. Beyond this, it will endeavor to discuss some zoning ideas that may sound completely unacceptable at this time but that may, in the long run, prove to be the key to the way to salvation, in a day in which we have actually only begun to realize the automobile is not a passing fancy and in which hard realization must be accompanied by an understanding that the automobile may be only a transitional device of transportation.

Let us first deal with the established and with the obvious.

The established, so far as considerable if not general acceptance is concerned, is that among the zoning requirements of space accompanying particular land uses must be included provision of the space for the accommodation of the motor vehicles without which such land uses could not be conducted either efficiently, *per se*, or satisfactorily as a part of the land-use composite of the community. We are, of course, talking about the provision of off-street automobile-parking space and space for the loading and unloading of goods in connection with various land uses. It is not necessary to talk to this group

about the requirement of such provision under zoning. The compilations and analyses by David R. Levin, of the Bureau of Public Roads; by the Eno Foundation; by the American Society of Planning Officials; and by others have amassed a storehouse of information of great value. The general public has become sensitive to the parking problem. Public sensitivity is usually the precursor and the goad of official planning action, which is traditionally timid and largely retrospective. So acute has this sensitivity become that it is not likely that a new zoning plan or the revision of an existing one will be undertaken anywhere in the country from now on without the inclusion of some requirement with respect to off-street-parking space.

Such requirements range all the way from a prototype consisting of the required provision of off-street-parking space for intensive traffic generators, e.g., theaters, sports arenas, to comprehensive requirements with respect to all land uses. The former are consistent with the forerunners of zoning that did no more than exclude acute nuisances from residential districts, and no more than this analogy can be claimed for them.

The latter the comprehensive approach to the problem, is exemplified in the provisions of the new zoning ordinance of Garden City, Long Island, New York. This ordinance first enunciates a municipal policy with respect to off-street parking and then implements the policy by specific require-

ments. The statement of policy begins by relying on the statutory purposes and considerations of zoning, and is set forth in the following language:

The Board of Trustees¹ hereby finds and determines that in order to lessen congestion in the streets, protect the public safety by preventing undue hazard to vehicular and pedestrian traffic, serve the public convenience, and aid in bringing about the most-appropriate use of land, it is necessary that space be provided for the safe and convenient off-street parking of all motor vehicles used in connection with all the uses of land and buildings in the village. In furtherance of this purpose it is hereby declared to be the policy of the village (a) that for residential and institutional uses and uses involving public assembly such space shall be provided in connection with and appurtenant to such uses and (b) that for commercial and industrial uses such space shall be provided in municipal parking fields to an extent that is consistent with sound municipal economy, and that space that is needed in accordance with the aforesaid purpose in addition to that that is contained in such fields shall be provided in connection with and appurtenant to the establishment or enlargement of the uses needing the same.

Then follows language that is prefatory to the explanation of the methods used in implementation of the policy:

The requirements as to off-street parking space that are specified in the schedule contained in Article V² have been devised in conformity with the aforesaid policy of the village and for the following reasons.

The regulations for residential districts are in the form of a specific formula, the explanation of which is as follows:

The requirements with respect to off-street parking space for dwellings are specified in terms of the relation of the required space to numbers of dwelling units in order to assure the provision of adequate and convenient space for the motor vehicle used by the occupants of such dwellings and visitors thereto.

The specified requirements for one-family dwellings call for one space per lot, with provisions as to the nature and location thereof: (1) either completely enclosed or completely unen-

closed and (2) located in the rear yard only, unless provided in a garage integral with the dwelling; and for other than one-family dwellings 1¼ spaces per dwelling unit, thus providing off-street space for visitors, as well as for patrons of professional offices permitted in apartment buildings.

The regulations for institutional uses and uses involving public assembly, whether requiring special permits from the Board of Appeals or permitted as a matter of right, are as follows:

The requirements with respect to off-street parking space for institutional uses and uses involving public assembly provide that the required amount of such space shall be determined by the Board of Appeals, with the advice of the Superintendent of Public Works, in order to permit consideration of the type, size, nature of operation, location, and site plan of each use as a means of ascertaining the amount of space that will be adequate to serve the same.

The foregoing method was selected in preference to formulas relating the required parking space to floor area, number of seats, number of beds, etc., because of the feeling that inflexible formulas might not fit the circumstances of particular cases. The administration of the government of Garden City is of exceptional capability and the exercise of the functions of the board of appeals of the village is characterized by a competence of the highest order. In the absence of such a favorable situation, there might well be a question as to whether the disabilities of an inflexible schedule of requirements are greater or less than possible lack of skill and consistency on the part of a board of appeals. If statutory or other controlling authority permits, consideration might be given to delegating to the planning board the determination of required space in particular cases.

With respect to commercial and industrial uses, the new Garden City ordinance relates the zoning requirements

¹ The governing body of the village.

² The schedule contains the regulations for the various districts established by the ordinance.

to the municipal program of provision of parking fields. The village properly recognizes that in a central business district, off-street parking must, in the main, be provided by common action, i.e., by the municipality itself. In pursuance of this policy, the village, with a population of about 17,500, now has effective parking spaces in municipal fields for about 1,800 vehicles and owns land that, upon improvement, will provide for about 2,000 more. Even with this unusually competent municipal parking field program, the village is determined to implement its stated policy of assuring off-street space for the parking of all vehicles in connection with all land uses in the village, and consequently lodges in the board of trustees (the governing body) the determination of the space required in each case, explaining this as follows:

The requirements with respect to off-street parking space for commercial and industrial uses provide that the required amount of such space be determined by the Board of Trustees in order to permit consideration of the type, size, nature of operation, location, and site plan of each use in relation to parking space conveniently available in municipal parking fields so as to determine what amount of parking space, if any, shall be provided directly in connection with the use under consideration and what amount, if any, should be added to the capacity of municipal parking fields.

Such a fixing of administrative discretion in the legislative body would be of questionable wisdom in a large municipality. It should be remembered, however, that in the entire country there are less than 500 municipalities with populations of over 10,000, while there are more than 16,000 of less than this size, of which more than half have populations of less than 1,000.

In any event, if the zoning requirement of off-street parking space is to be linked with a municipal program of off-street parking, administrative determination of the amount of off-street space to be provided privately should be

lodged in, or should be in direct and effective appurtenance to, the body having jurisdiction over the municipal program.

It should be observed here that any such delegation of administrative authority, to whomever it is assigned, must be subject to the application of appropriate standards. In the Garden City ordinance such standards are found primarily in the aforesaid basic statement of policy and, with respect to determination by the board of appeals, in the provision that said board shall have power to take the following action:

(a) with the advice of the Superintendent of Public Works, determine the amount of off-street parking space required for certain uses as provided in the schedule contained in Article V . . . (b) subject to the approval of said Superintendent, determine the design of such places and the means of ingress and egress for the same; and (c) require such screening of such places as the Board may deem to be necessary in order to prevent detriment to neighboring property or annoyance to the occupants thereof.

The foregoing provision exemplifies an important procedure in planning administration: *interdepartmental coordination*. If the function of planning in a particular municipality is confined to the planning board alone, that municipality is not doing effective planning. Planning in a municipality is essentially a function of the legislative and administrative arms of government, to which the planning board itself is only advisory. When any administrative authority is devolved on the planning board, or on the board of appeals in its exercise of original jurisdiction,³ provision should be made for proper coordination with the governmental functions having primary operating authority.

The provisions of the new Garden City ordinance with respect to off-street

³As distinguished from its appellate functions of (1) deciding questions of interpretation on appeal and (2) granting adjustments in cases of unusual conditions, by reason of which the strict application of a particular provision of the zoning ordinance would result in "practical difficulty or unnecessary hardship."

loading-and-unloading space parallel the foregoing requirements as to parking space. In residential districts the loading-and-unloading space may be identical with the required parking space, while the determination with respect to other uses is made in individual cases. Again, such intimate requirements would not operate satisfactorily in a city of great size; but, still again, we are talking about the overwhelming majority of all municipalities in the country.

Still dealing with what may be regarded as established, we may report that zoning consistent with the requirements of the automobile era is not only concerned with the provision of off-street-parking and loading-and-unloading space but with access to it. The problem is not difficult in one-family residential districts, in which access is had by a driveway to parking space customarily permitted only in the rear yard or in a garage attached to the dwelling. Provisions applying to other means of access, such as that the door of a garage opening on an alley shall not be nearer than a specified distance, say 15 feet, to the center of the alley, are too simple to require attention in this paper.

The problem is more complicated in multi-family districts and in business and industrial districts. Formulas such as those relating to distance of driveways from street intersections are fairly obvious. Beyond such requirements as these, however, formulas must give way to administrative discretion in passing on site layout.

Even if a formula is used as a basis for the requirement of off-street parking space for institutional, business, and industrial uses, this should be supplemented by the delegation of (1) administrative authority, preferably to the official responsible for street safety,

with respect to the location of driveways giving access to parking space (this authority can usually be exercised through standard rules) and (2) administrative authority, preferably to the planning board, or to the board of appeals with the advice of the planning board, with respect to the site layout of developments involving groups of buildings.

The latter authority should specifically be applicable to (1) the location of both required and any additional off-street spaces for parking and for loading and unloading and (2) the location, width, and other characteristics of driveways giving access thereto.

In the vein in which this paper began, we have now proceeded from the established to what should be the obvious. Here we are not dealing with the automobile as an isolated phenomenon but as one of the dynamics of patterns of community development in our own day.

It certainly should be clear that the era of the automobile calls for systems of functionally differentiated streets.

The basic functional differentiation is between streets used primarily for access to abutting land and those used (1) additionally, or (2) primarily, or (3) exclusively for the movement of traffic other than that directly destined to abutting land. Within the foregoing description lies the whole range of traffic rights-of-way, from cul-de-sac streets serving only for access to half a dozen or so abutting lots to great freeways and parkways with no direct service relation to adjacent land. Such differentiation can be achieved in the basic planning of areas of new development, i.e., areas in which "acreage" is given an urban pattern through subdivision or other intensification of use.

In areas in which development has already taken place, i.e., in areas pre-

viously subdivided from an acreage status to a town lot layout, it will usually be found that the rights-of-way, so far as their physical characteristics are concerned, are either functionally undifferentiated or are differentiated in inconclusive degree. The true basis of functional differentiation is not width but the degree of intimacy between the traffic way and abutting land use, ranging from close proximity in the case of exclusively access streets to separation by spacious insulating landscaping in the case of great primary traffic thoroughfares.

With respect to previously established land-development patterns, zoning can be little more than a palliative, but it is a tremendously potent one. With limited retroactive exception, zoning applies only to prospective uses. For these, it should apply setbacks, i.e., front-yard requirements, in relation to the traffic function of the street. This can be determined by the status of the street, if this be an appropriate basis of distinction, such as with respect to whether or not it is a county road or a state highway, for example, or preferably, with respect to its designation on an established plan of thoroughfares as part of an overall master plan of the community.

Such a varied application of front-yard requirements in a zoning district of a particular classification does not violate the customary statutory requirement that the regulations for each class of district shall be uniform. This statutory requirement does not mean that the regulations in a particular district classification shall be identical for all lots but that the rules shall be uniform. Front-yard requirements, then, applied differentially with respect to streets of various statuses, are entirely within the uniformity rule of the statute.

It can be said, as a general guide, that

zoning regulations applied to existing thoroughfares should seek to apply front-yard-depth requirements (i.e., setbacks) with increasing severity in relation to greater existing and potential traffic importance of the particular thoroughfare. With respect to residential development, space serves as an insulator, insofar as it can, between the serenity of residential occupancy of the land and characteristics of traffic that are in conflict therewith. For commercial development, space contributes toward necessary provision for off-street parking and facility in the provision of access thereto.

Zoning can markedly affect the quality and appearance of land development along thoroughfares of the traditional pattern, i.e., with the abutting land having direct access to the roadway. The use of the land abutting a thoroughfare should, of course, be subject to regulations appropriate to the general neighborhood area.

Given adequate control of access, there is no roadside problem with the residential use of adjacent land. When it comes to roadside commercial or industrial development, however, the normal use of land in relation to the general developmental pattern of the neighborhood becomes subject to the show-window impact of its situation adjacent to a corridor of moving traffic. If signs on an adjacent permitted use have the purpose of identifying the use, and do so with restraint, well and good: If the use is permitted, it has the right of identification. As has been well established in numerous court decisions, however, signs beyond such an identification purpose are in a different class; they are, in effect, a use of the highway rather than of the land on which they are situated. The following principles may be regarded as established:

1. Roadside signs having a purpose

other than the identification of permitted places of business are a separate form of business use and may be distinguished from identification signs and, by reason of their own peculiar characteristics, from all other forms of roadside business and may be regulated as such.

2. The zoning principle of classification of uses may be applied as among various types of business uses that may seek roadside locations, so as to permit those that are appropriate to the particular situation and to prohibit all others.

3. The show-window nature of the roadside justifies more-severe regulation of the nature and the appearance of roadside uses than might be justified with respect to the same or similar uses otherwise situated.

These principles call for (1) the limitation of roadside uses to those that are appropriate to the particular situation, whether residential, limited business, general business, or other; (2) stringent regulation of roadside advertising, either on permitted places of business or, particularly, apart therefrom, with complete prohibition of the latter indicated for all but concentrated business districts of high intensity; and (3) regulation of the appearance of roadside buildings, ordinarily calling for the exercise of administrative authority in passing on the design of proposed buildings and alterations thereof.

The foregoing principles, and that of greater setback of buildings in relation to the intensity of function of the thoroughfare, should be applied to existing general patterns of development, so far as possible. Their more effective application, however, comes in relation to new development. Here then should be the closest correlation of zoning measures, i.e., regulation of the nature and

intensity of land use, with those relating to subdivision layout.

It should be axiomatic that, just as it can no longer be said, "A street is a street," the layout of land development should be in accord with the intended use. Apparently, however, this principle must be reiterated. It may be that we shall not again see the land peddler's almost unbelievable sign in the boom days of the 20's in the Los Angeles area: "Home or oil—you win," and certainly not the nearby one the prophecy of which was realized all too soon with unexpected grimness: "Buy now; realize later." But last week I heard a so-called developer who was submitting a subdivision plat say that if he couldn't sell certain highway frontage lots for business purposes, he would build houses on them, in the naive assumption that the layouts of business and residential developments could be the same.

The automobile is not the basic reason why respective site layouts for residential and business use can not be the same. But, by reason of the conflict between traffic use of a thoroughfare and directly contiguous use of land, for whatever purpose, and by reason of the need for space for off-street parking for any land use, which conflicts and which needs apply with great difference as between residential and commercial development, the automobile has accentuated the necessity for adequate site planning for land development.

Newer ventures in zoning have been seeking to devise appropriate regulations for land-area design, as distinguished from lot-by-lot requirements. Among the more forward looking of these are the provisions of the zoning ordinance of the Town of Cortlandt,⁴

⁴The Town of Cortlandt is situated in the north-westerly corner of Westchester County. Its longer dimension extends for an overall distance of about 11 miles along the Hudson River (except for the City of Peekskill, surrounded on three sides by the town), beginning at a distance of about 33 miles from Grand Central Station in

in Westchester County, New York. That ordinance includes the customary lot-by-lot regulations applicable to areas previously laid out in traditional design. But it also prescribes site-planning regulations that are applicable to parcels of not less than a specified size in any residential district and to any development in certain specified business and industrial districts.

As to residential development the ordinance provides:

The regulations applying to planned residential development in R districts are intended to permit flexibility in land areas design and dwelling types, within the general pattern of land use and population density of such R districts, for the purpose of bringing about arrangements of buildings and open spaces that will contribute to the desirability of living environment of the dwellings included in such planned development with respect to daylight, sunlight, air, privacy, choice of dwelling types, and general amenity.

Any parcel of land in one ownership and having an area of not less than 15 acres may be used for planned residential development, including dwellings of any type, in accordance with a site plan approved by the planning board in accordance with the same procedure as that specified by law for the approval of subdivision plats, and subject to the following conditions.

Then follow the specific regulations. These include certain overall requirements as to density, minimum distance between buildings, required open space, and some other matters, within which wide latitude in site layout is permitted. There is no specified height limit, this being left to the design of the particular site plan.

The foregoing applies in any residential district. Site planning for commercial development is provided in a specific classification, that of a Designed Shopping District (designated as C-D). For such districts the ordinance provides:

The regulations for C-D districts are intended to provide a means for the establish-

ment of well-designed, efficient, and convenient retail shopping centers as a normal part of the intensification of land use that is occurring and will continue to occur throughout the town and infurtherance of the purposes set forth in Section 1, such centers to be established from time to time by amendments of this ordinance consisting of changes in the boundaries of districts, in appropriate relation to residential and other development as it may occur.

The same principle is used in the regulations for Designed Industrial Districts (M-D) as follows:

The regulations for M-D districts are intended to permit and encourage commercial and industrial development that will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the town, contribute to the soundness of the economic base of the town, and otherwise further the purposes set forth in Section 1, such districts to be established from time to time by amendments of this ordinance consisting of appropriate changes in the boundaries of districts.

The following provisions require site plan approval in both C-D and M-D districts, in addition to other regulations as to height and area:

The location of main and accessory buildings on the site and in relation to one another, the traffic circulation features within the site, the height and bulk of buildings, the provision of off-street parking space, the provision of other open space on the site, and the display of signs shall . . . be in accordance with a site plan or plans or subsequent amendment thereof, approved in any case by the planning board in accordance with the same procedure as that specified by law for approving subdivision plats. . . . In considering any site plan hereunder the planning board shall endeavor to assure safety and convenience of traffic movement both within the area covered and in relation to access streets, harmonious and beneficial relation among the buildings and uses in the area covered, and satisfactory and harmonious relation between such area and contiguous land and buildings and adjacent neighborhoods.

The provisions of zoning regulations that relate to automobile parking and access thereto are important but only incidentally so with respect to the major thesis of this part of this paper. The important feature of such regulations as those of the Town of Cortlandt

New York. The unincorporated territory of the town (excluding the villages of Buchanan and Groton-on-Hudson) has an area of 34 50 sq mi and a population (1950) of 7,489

is the basic principle of land-area design, as appropriate to a day in which the automobile has required functionally differentiated street patterns and in which the latter call for land-development layouts that, in turn, are functionally differentiated. Again, the latter arise primarily from a growing understanding of what may be called the organic structure of the community; the dynamics of the automobile have insistently added a voice calling for such an understanding.

Here, indeed, zoning begins to fulfill its task, as prescribed alike by statute and by common sense, of encouraging "the most-appropriate use of land throughout the municipality." In recognition of this, the most-powerful planning purpose of zoning, the Cortlandt zoning ordinance sets forth the following among its basic purposes:

1. Guiding the future development of the town in accordance with a comprehensive plan of land use and population density that represents the most beneficial and convenient relationships among the residential, commercial, industrial, and recreational areas within the town, having regard to their suitability for the various uses appropriate to each of them and their potentiality for such uses, as indicated by existing conditions and trends in population, in the direction and manner of the use of land, in building development, and in economic activity.

2. Preserving within the general framework of said comprehensive plan the maximum (a) opportunity for the exercise of private initiative and choice in land and building and development, (b) flexibility in the application of sound public policy relating to land and building development and (c) opportunity for adaptation to changing conditions and unforeseen events, all in full recognition of the fact that, in general, the territory of the town is now lightly developed, but is undergoing gradual intensification of land use in response to developmental forces both operating within the town and exerting an influence on the town as a part of the larger community of Westchester County and of the New York metropolitan area. . . .

6. Aiding in bringing about the most beneficial relation between the uses of land and buildings and the movement of traffic through and the circulation of traffic within the town, having particular regard to the avoidance of

congestion in the highways, streets, and roads in the town and the provision of safe and convenient traffic access appropriate to the various uses of land and buildings throughout the town. . . .

Here we come to the first jumping-off place in this paper. How simple were the days in which zoning felt itself limited to the prevention of obvious abuses—the traditional glue factory in a residence district. (In 31 years of planning practice I have never yet run onto a single example of a glue factory in a residential district, but the dismal prospect is still used as a horrible example by bright-eyed novices in zoning.) Who can decide the basic issues involved in the foregoing statement of planning purpose in the Cortlandt zoning ordinance? A city, village, borough, town, or township in the great New York metropolitan area—to use the most-complex multijurisdictional composite in the nation, but only the most complex among hundreds, nay, thousands throughout the nation—has exclusive control of land use within its boundaries.

The New York metropolitan area is divided among about 550 such local units of government, each enclosed within what the New Jersey Supreme Court, in a recent monumentally important decision,⁵ referred to as "adventitiously located boundaries." Such boundaries do not encompass logically separable units of the demographic and economic composite of the entire intercommunity area. Yet the final responsibility for profoundly important decisions as to land use is lodged in governments operating exclusively within such boundaries and under the compulsion of assuring that the costs of governmental services required by additional land uses will be balanced by tax revenues resulting therefrom.

It doesn't make sense.

⁵ *Duffcon Concrete Products, Inc. v Borough of Creskill*, 1 N. J. 509.

Conscious of the main focus of this paper, we may ask where the automobile fits into all this. Again, the automobile is one factor among others. But it is one of the most-important factors determining the pattern of land use over a metropolitan, or intercommunity area. Gone are the days of centralized metropolitan development, with most of the intensive uses being located at or near the center and with gradually less-intensive development spreading outward, primarily along routes of rail transportation. That pattern began to break up in the 1920's, when people in a metropolitan area, shod with motorized wheels, were freed from the necessity of residential location in close proximity to suburban rail lines. Now, throughout the country, we are in a period of major redistribution of much economic activity, in which economic forces operate widely throughout an area occupied by a population composite regardless of how it may be jurisdictionally compartmentalized.

Insofar as zoning adheres fairly closely to what already is, it may evidence a considerable degree of consistency over an intercommunity area, even though it is individually determined by the individual jurisdictional components of that area. But such apparent consistency may be delusive. The impact of developmental forces is influenced by what already is, but it is certainly not confined to basic land-use patterns that reflect what has already happened and that, *per se*, can not forecast what is to come. When zoning moves beyond attempting to assure a degree of orderliness in what is, it must look for guidance not alone in what is likely to be but in conscious determination of what ought to be.

Developmental forces seek to range fairly freely throughout a metropolitan area, facilitated by the even-more-freely

ranging automobile. These developmental forces, in their impact on land uses, are subject to drastic controls by a multiplicity of local governmental jurisdictions. The aggregate of the results of these controls, motivated by what seems important at the time to those in control at the time, and under the compulsion of balancing the municipal economy within political boundaries as they are and as they will almost inevitably remain, will not necessarily constitute a satisfactory land-use composite.

There are basic elements of a land-use pattern for a metropolitan area—the location of major industrial areas and a broad pattern of population density—that can not possibly be determined by the aggregate of rather minutely fragmented local action but only by aggregate action, i.e., by authority exercised by the aggregate of the local jurisdictions involved. That authority might be lodged in some jurisdiction directly responsible to the people, but more probably in an overall representative council, safeguarded against stalemate by provision for less-than-unanimous effectuating decision. The growing importance of the county in many metropolitan areas might lead to the lodging of basic authority in counties, with required coordination among them. Where state boundaries intervene, action under interstate compact would be required for other than voluntary coordination. The broad land-use plan resulting from such overall or aggregate action would serve as the basic pattern within which local zoning regulations could be devised by local authority in great variety of detail.

Before considering the major channels of movement that a land-use composite requires, it should be pointed out that whatever solution there may be to the traffic problem as now occurring, it does not lie alone in applying remedies

to thoroughfares themselves but also in measures designed to bring about sound basic land-use patterns.

A pattern of land use is only part of the future community, the attainment of which zoning should seek to facilitate. There can be no land use, except a vegetative type that has long ceased to exist in our civilization, without extensive communication and movement. It is well recognized in zoning that specific land uses should be required to provide whatever space in addition to that in the streets that these land uses require—space in yards and now space for automobile parking and for loading and unloading. It is likewise recognized that land development through the process of subdivision should provide the space for movement that such development requires—both in new streets and in the widening, where necessary, of existing streets.

That isn't all. It is also recognized, although not widely practiced, that all land development, even though not involving the specific process of subdividing, should respect the pattern of streets that the development of the community as a whole requires. This is accomplished in some states by the device of the official map and, in some others, by similar measures whereby future street lines are designated and all building is required to conform thereto.

With the exception of a rare instance of provisions requiring respect for mapped streets, none of the foregoing measures was in existence a half century ago, and their general use covers only a fraction of this period.

A combination of three factors has brought about the beginning of effective application of the fact that no land is held in private ownership except on grant from the sovereign, the people, and that all land is held subject to whatever limitations the welfare of the sov-

ereign, the people, may require. The factors are: (1) a vast increase in the extent and complexity of urbanization; (2) the disappearance of the physical frontier and the general replacement of extensive opportunities for land exploitation by the necessity for reliance on investment capital, requiring long-term security based on long-term quality in land development, and (3) the concurrent growth of recognized social responsibility.

Up into this century this fact of sovereign ownership found expression only in the right of the people, through their government, to exercise eminent domain ("resumption of title" it is called in New Zealand) on the payment of compensation for whatever market value might exist for whatever the land might be used for, completely unrestricted as to use except for actually hazardous, noxious, or immoral purposes.

The mere statement of the foregoing is sufficient evidence of how far we have come since that concept was generally held. The rightful value of land is now recognized as being only that for the purpose for which it can be used under a comprehensive plan of limitation of use in the public interest. Whatever price may have been paid for land by the owner, whatever price he might obtain for it in a free market, he has a right only to its value for a purpose permitted under comprehensive zoning limitations.

The easy cliché that "land similarly situated must be similarly zoned" no longer has any semblance of the validity it was once thought to have. Parcels of land of similar physical character and similarly situated, *per se*, may be validly zoned for widely differing purposes, with greatly differing resultant values. The only clear right that an owner of land has, in the face of commu-

nity need, would seem to be the right to the continuation of the use to which the land was put at the time the community imposed on its future use limitations designed to serve the public welfare. Even this right is being increasingly recognized as not being unlimited but as existing only during whatever time is sufficient to amortize the investment in whatever improvements were made in connection with the use in question.

The statement of the foregoing considerations is a review of well-established zoning principles. It is set forth here for the purpose of trying to identify clearly what property rights are possessed by the owners of land as against the public interest. The public interest is not limited merely to assuring that particular land uses will not directly conflict with one another but extends broadly to the implementation of a comprehensive land-use plan. Such implementation, insofar as it consists of limitations on the use of land, must respect the actual rights of the owners but need do no more than this. It would seem, therefore, that land buying within the channels of movement required for the proper functioning of a comprehensive land-use plan could be limited to the uses existing at the time of the imposition of the limitation, regardless of how land not so located may be zoned in accordance with such a plan.

If such a limitation would appear to be beyond present acceptance (much as it was once thought that land-use controls now imposed by zoning were beyond the limits of the police power and could be accomplished only under eminent domain), it may be that the limitation of use would now require some proceeding in eminent domain. Similar limitations, for the preservation of "greenbelts," were established in Britain by the purchase of "development

rights" under the Town and Country Planning Act, an instrument of policies established as a result of studies made by governments both to the right and to the left in political philosophy.

The formidability of such a device would exceed the need if we were talking about potential rights-of-way that were merely somewhat wider than ordinary highways. The need extends far beyond such an amplification, however. The freeway, turnpike, thruway, expressway, or whatever it may be called, is the type of thoroughfare now regarded as necessary to serve today's traffic needs. It is submitted that even these great routes, as they are now being planned and built, are doing little more than catch up with today's needs. They have the advantage of being severed from abutting land and more or less dissociated from systems of streets and thoroughfares existing as rights-of-way of the traditional pattern. But, in the main, they still thread fairly tight courses through communities that have been, or may become, developed to a nonrural intensity of use. And, in the main, they are laid out as if their present basic design would serve for all time to come.

In a day in which mankind has begun to unlock the fundamental storehouse of power of the universe itself, we can be certain only of one thing: the fallibility of our present predictions. We can not design communities and routes of travel and communication to serve them in accordance with what we do not yet know, and what we do not yet know will always lie ahead and will always render our best plans obsolete. The wisest thing that we can do is to try to keep out of the way of the future, and the only way in which we can begin to do this is to provide space—space that will be required in order to build over again, and again and again, all the major com-

munity facilities that we are now building or may build in the future.

In this concept, space for the channels of movement that are an integral part of any community composite must be ample beyond anything that we have yet thought to be necessary. Belts of open land up to 1,000 feet wide would probably permit whatever provision for movement that the future may require, without engaging in the repeated process of tearing the community apart to overcome our earlier deficiencies. Such belts, too, would permit landscaping that would provide complete insulation for neighboring land development, rather than thin, planted strips that neither provide adequate protection nor can be maintained against even minor changes in existing construction. Furthermore, these belts would afford considerable space for the provision of local recreation areas.

Impractical? The impracticality that we should fear most is that that relies too heavily on our own current wisdom and sells the future short.

Zoning today can probably do no more than aid incidentally in implementing

such concepts. Whatever it can accomplish in so doing or in any of the other applications discussed in this paper, either now or in the future, the degree of its effectiveness will depend in great part on the extent to which it is not used alone but as one of that array of interlocking measures and devices that the community should employ for the purpose of guiding development in accordance with policies that the community has established. Whether these relate to the provision of facilities and services by the community itself or to the regulation of what is done privately to, with, and on the land, the automobile era calls for concepts and standards that are more than gradual adaptations of what has thus far been acceptable.

True practicality in this regard calls for a release of our minds from the limitations of what we have been accustomed to consider as practical, so that creative thinking may point the way into the future beyond the negligible distance that can be charted with any degree of assurance by mere statistical prediction.