REPORT OF SUBCOMMITTEE ON ZONING

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The Field of Rural Zoning and Planning

It might seem, at first thought, that the field of this subcommittee should be confined to the close proximity of the roadsides. But more mature reflection makes it plain that its scope includes all the rural out-of-doors. Since the most essential element of zoning is comprehensiveness, the inconsistency of regulations which govern no more than immediate roadsides is apparent. "Strip-zoning", so-called, cannot be comprehensive. We must realize that one of the purposes of roadside improvement, and not the least important, is the advancement of aesthetics as applied to the landscape, and the landscape is limited only by vision.

We must also remember that "Zoning" is not an objective in itself, but an implement of planning, and that the planning of the roadside cannot stop at a definite distance from the center of the pavement. Only a few years ago organized highway builders were concerned only with major highways. Today they are concerned with all highways. Nor can the highways be considered by themselves, since they, too, are only a facility by means of which people are better able to carry on their activities. For this reason the highways must be planned with consideration for the people who are served, and the lands which are traversed. Particularly in late years, it has come to be realized that the manner of use of privately owned land is of great public concern, and that the public interest is best served if the land is used for the purposes for which it is best suited, and in the manner that will preserve or even improve, its usefulness. This means land planning on a comprehensive basis, with the roadsides treated as a part of the whole. Aside from its lack of comprehensiveness, strip zoning is less desirable than comprehensive zoning for the reason that, if put into effect prior to comprehensive zoning, it cannot fail to cause confusion later, when comprehensive zoning shall be undertaken. /AUTHOR/

(ADD) → (91) The content of a model county zoning ordinance embodying these concepts is sketched, and the Wisconsin experience is cited.

For these reasons this report will be confined to comprehensive zoning, an implement for land planning over an area, as distinguished from strip zoning which is confined to the immediate roadsides.

The Zoning and Planning Unit

The most effective unit for rural planning and zoning is the county. A lesser rural unit may plan and zone, but its work is not well done unless it is coordinated with the adjacent lesser units. In most instances the counties are the smallest governmental units whose boundaries are contiguous for considerable distances and whose areas are large enough to comprise comprehensive planning units. Also, our present laws are such that the major portion of all planning activities can best be put into effect by the counties. The best way of bringing about real coordination is through action by a large unit, and that unit logically must be the county. It will be said, and said truly, that there must also be coordination between counties. It is the purpose and effort of the State agencies concerned with rural planning and zoning to bring about such coordination. This can be done only when the activities, proposals and status of neighboring counties or groups of counties are known, together with the effect of any State-wide programs in such areas. Counties vary tremendously in size, physical aspect and economic status. Proper consideration of any of them, whether large or small, simple or complex, rich or poor, is something to tax the best efforts of the greatest talent that can be brought to bear upon the problem.

The following discussion will therefore consider the county as the proper planning and zoning unit, and be based on that premise.

The term county planning, as used in this discussion, will be assumed to include county zoning as a part of a plan, but county zoning as such will be separately discussed and mentioned here.

Enabling Act Necessary

Planning activities in any county can be undertaken only when there is in effect a proper and workable enabling act adopted by the legislature; that is, a law giving to the counties the necessary authority to make the plan in the manner and for the purposes of the statute.

The drafting of such enabling legislation should not be undertaken hastily nor without a thorough investigation of the existing collateral laws which might have the effect either of nullifying or confusing the proposed enabling act. A study should be made of those parts of the statutes which cover such things as annexation and disannexation, navigable waters, flood control, lake and stream pollution,

water power, authority of harbor commissions, breakwaters and piers, dock and shore protection, riparian rights, bridges, the powers and authority of boards of public works, highways, grade separations, land platting, public utilities, rural planning, drainage, eminent domain, the authority of the board of health, housing laws, vital statistics, public parks, public education, forests, soil conservation, tax laws and aeronautics. There may be other laws whose content and possible effect should be studied. This list is mentioned as an indication of possible conflicting or over-lapping powers.

Provisions of Enabling Act

The county planning Enabling Act should state the purpose for which the legislation is enacted, which is the establishment of minimum standards for the protection of public health, for public safety and welfare. It may well include public convenience also.

There should be authority for the establishment of a proper planning body which, for convenience, may be called a "county plan commission", and its powers and duties should be prescribed. Such powers and duties are those which are required to make the necessary studies and recommendations for the development of a comprehensive plan or such parts of a plan as seem most advisable for the community under consideration. This would include the authority to employ the necessary staff and provide such equipment as may be necessary for the performance of its duties. The commission should be provided with suitable office space and be organized to carry out its duties. It should be permitted to accept gifts and grants, or to make purchases and leases of land for such purposes as the law contemplates. The number of members on the planning commission should be set, and the personnel may well be selected by the chairman of the county governing body with the approval of the body itself. Membership should not be limited to members of the county governing body. Experience indicates that seven is a convenient number of members, each appointed for a term of seven years, only one term expiring each year.

The most important provision to be included in such ordinances is that for a board of adjustment. This body may consist of fewer members than the plan commission - preferably three or five, and again appointed by the chairman of the county governing body with the approval of the body. None of the members of the board of adjustment should have his residence in any incorporated city or village, the county ordinance being effective only outside of such areas; nor should any two members have residence in the same town or township or other minor unit. The powers and duties of the board of adjustment must be carefully defined. There should be provisions requiring that their activities shall be a matter of public record and that their hearings shall be public. Specifications must be set up as to the manner and time of taking appeals.

The provision for enforcement of ordinances enacted under such legislation is sometimes through the establishment of a building inspector, or the requirement of building permits. Penalties for violations must be provided.

The scope of this enabling act should be sufficiently broad, so that the county can do that which it deems desirable for the promotion of the health, safety and general welfare of the people. But what the county may do must stand the test of reasonableness as determined by the courts. By way of illustration, the Wisconsin enabling act is quoted later in this report under the caption "Wisconsin Experience".

County Zoning Ordinances

The following discussion of the possible content of county zoning ordinances is not submitted as a model ordinance, but simply to suggest the nature of some of the provisions which such an ordinance might contain. It is not possible to develop such an ordinance for any county until detailed studies of the existing situation in that county have been made and its needs determined. Then, and then only, can a plan be drafted which will fit the requirements of the county and successfully withstand a legal attack. The ordinance must be "tailor made" for the county to which it will apply.

The Preamble to a county zoning ordinance need state simply that it is enacted pursuant to the provisions of the statutes of the State and for the furtherance of the public health, safety and public welfare, etc. Then "The Board of Supervisors does ordain:"

SECTION I - DEFINITIONS. This section is devoted to the definition of the precise meanings of certain words and terms. These words and terms have a special meaning insofar as the ordinance is concerned, and it is necessary, therefore, that these meanings be made clear. By defining them in a special section, repetition is avoided; no further explanation is required when they are used in the body of the ordinance, and the ordinance is more readily understandable.

Some of the words and phrases usually defined in this Section are "accessory buildings", "boarding houses", "lodging houses", "clubs", "districts", "single family dwellings", "public garages", "home occupations", "non-conforming uses", "tourist camps", "setback lines", "temporary structures", "forest products and industries", "public and private parks", "private cottages and service buildings", "hunting and fishing cabins", and "trappers' cabins". Such definitions of other special terms may be necessary in the particular locality for which the ordinance is being drafted.

This section should also say that words used in the present tense include the future, the singular includes the plural, building includes structures, and the word "shall" is always mandatory.

SECTION II - USE DISTRICTS. For the purpose of promoting public health, safety and general welfare, the county is divided into such a specified number of districts as may be determined upon for the county being considered. These districts should be determined after careful study and be accurately delineated on a map. The map must accompany the ordinance, and be made a part of it. This section must provide that all future buildings and premises shall conform to the regulations of the ordinance appertaining to the district in which they are located, that lots and open spaces shall not be reduced so as to increase the density of population beyond that permitted by the ordinance. Where desirable, it should regulate the location of buildings for specified uses in relation to the high water mark of lakes and streams.

The ordinance then proceeds to prescribe in detail the uses permitted in the districts set up in this section, and shown on the map. The procedure usually is to take up first the districts which are considered as having the highest use, and then to proceed in a descending order of regulation.

SECTION III - RESIDENCE DISTRICT, CONSERVANCY DISTRICT OR FORESTRY DISTRICT. These districts are areas in which the future use of land is to be devoted primarily to single family residences, conservation purposes and forestry. These permitted uses must, of course, be supplemented by other uses necessarily appurtenant to the aforesaid uses, such as cemeteries; churches; schools; public institutions; gardening and farming (except such farming as may be undesirable in a residential area); home occupations; libraries; museums; nurseries; greenhouses; private clubs; public parks and golf courses; railroad stations; telephone, telegraph and transmission lines; and the harvesting of wild crops and timber crops and accessory buildings. The areas included in such districts are usually tracts along river banks and lake shores, devoted to summer residences, the environs of cities and lands not generally fit for agriculture but usable for forestry.

The regulations applicable to residence, conservancy or forestry districts contain minimum standards for building lots to be platted in the future. Such standards will vary with the community to which the ordinance will apply. The general practice in Wisconsin, to date, has been to specify a lot with a minimum area of 8,000 sq. ft. and a minimum width of 60 ft. for each family. The purpose of setting up dimensions for the platting of building lots is to maintain an adequate standard of land subdivision, thereby eliminating much of wildcat platting which has been known to place in sale rural lots as small as 20 by 100 ft.

This section may also contain a regulation controlling the maximum height to which buildings can be built, but such structures as mechanical appurtenances, spires and ornamental towers are excepted. The ordinance may contain more than one residence district, the principal variation being in the minimum lot sizes specified for each.

SECTION IV - AGRICULTURAL DISTRICT. This district, in most cases, will embrace the largest area in the county. The permitted uses, in general, are all of the uses permitted in the residence district and such additional uses as aircraft landing fields, basins and hangars; dams; power plants; flowage areas; transmission lines and sub-stations; all kinds of farming - except such farming as is conducted for the disposal of refuse or the reduction of garbage, sewage and offal or rendering plants. Additional permitted uses are those of manufacturing and processing the natural mineral resources indigenous to the county (stone, gravel, mineral springs, etc.); lodging and boarding houses and hotels; multiple family dwellings; roadside stands for the disposal of farm produce; creameries; cheese factories; milk condenseries; canneries, etc. It may be desirable also to include tourist camps in the permitted uses, although they are more properly confined to a commercial district if such is established.

The same standards for land subdivision and building height regulations should apply to agricultural districts as in the residential districts. The height regulations are not applicable to farm buildings such as barn, silos, etc., but they should be drafted so as to prevent the erection of buildings to excessive heights in the environs of airports.

SECTION V - COMMERCIAL DISTRICT. In some counties, it is desirable to set up a commercial district located at the prominent road intersections where commerce and business have already indicated a tendency to develop. This is done for the purpose of preventing, in the future, the promiscuous and dangerous development of business uses anywhere up and down the highway, and to provide for them a location which can be developed safely and conveniently. The permitted uses included in this district are all of those included in the residence and agricultural districts and, in addition, outdoor advertising structures, any wholesale and retail business, except junk and automobile wrecking yards, any kind of processing and treatment which is incidental to the conduct of a retail or wholesale business. Here is the logical place for the location of tourist camps.

Land in commercial districts used for residential purposes should meet the same standards as in other districts where residential use is permitted. The height regulations for non-residential buildings may be increased if necessary.

If deemed advisable, the regulations for the commercial district can be drawn on a broad base so as to permit the use of land in such district for any purpose which is not hazardous, offensive or noxious. Such a district would be called, more properly, an industrial district. When the regulations for commercial districts are so drawn, it is not necessary to establish any more districts than those so far discussed.

However, if the county development is such that it will be found desirable to write the regulations applicable to the commercial district as first indicated under this section, and to make provision for broader uses by means of a service or industrial district, the procedure should then be as indicated hereinafter.

SECTION VI - SERVICE OR LIGHT INDUSTRIAL DISTRICT. The uses permitted in the service or industrial districts will include all of those already named for the commercial district, and such others as bakeries; building material; fuel and contractors' storage yards; lumber yards; cleaning, dyeing and pressing establishments; laundries; planing mills; carpentry and cabinet shops; automobile and bicycle shops; paint shops; printing and publishing and sheet metal works.

It is good practice to exclude all residential uses from a service or industrial district such as this, for the reason that these areas are relatively small and the use of land for residential purposes has the effect of occupying land that eventually will be required for industrial use. This may necessitate an unwarranted extension of boundaries of the district before it is desirable to do so. Further, residential occupancy of such districts is not in the interest of the public health, safety or welfare. There is always a sufficiency of well located land available for residential use.

Height regulations in the service or light industrial district can be increased above that in the residential district, although it is not necessary for the uses proposed. The service or light industrial district will serve well for the location of those enterprises which are necessary for the complete service of a large population. The scope of its permitted uses is larger than that of a shopping area and may require the services of railroad spurs or heavy trucking to an extent not desirable in a commercial district.

SECTION VII - HEAVY INDUSTRIAL DISTRICT. It may be found advantageous to set aside an area in which any uses except such as are noxious or hazardous are permitted and even these may be included when the hazard or noxious aspect is eliminated or acceptably restricted by reason of proper location. A heavy industrial district should not permit the use of land for residential buildings of any type nor for hotels, lodging and boarding houses, schools, churches, museums, libraries, etc. The district should be located so that it is readily accessibly to all types of transportation, should be capable of expansion and devoted strictly to heavy industrial uses.

The foregoing suggestions of what might be contained in the various zoning districts are, as was said in the beginning, variable according to the physical, social, and economic development and geographic location of the county. In fact, districts can be established

of such number and character as will fulfill the requirements of the community for a comprehensive land use plan. Some counties might find it desirable to establish more than two residential districts or several types of light industrial districts. One county in Wisconsin has set up two types of commercial districts, one called urban commercial, which is relatively close to the boundaries of a large city in the county; and the other a rural commercial district, which is confined specifically to rural districts and which is devoted to a wider use than is the urban commercial district.

SECTION VIII - HIGHWAY SETBACK LINES. The enabling act should provide authority for the counties to establish a system of highway setback lines. Provision for such setback lines may then be included in the zoning ordinances. Setback lines are established for two purposes: In the interest of safety such setback lines will prevent the construction of permanent obstructions to the view of the user of the major highway, and will insure adequate vision at intersections, both for drivers already on the major highway, and for drivers proposing to enter it. In the interest of economy, future highway widening can be undertaken without the added cost involved in the taking, moving or remodeling of buildings or other permanent structures located too close to the right of ways. Widening of highways can be readily accomplished where the setback is in effect, without detriment or inconvenience to the owners of abutting property, since such setback regulations are reasonable and, by preventing the construction of expensive structures within the future widened highway, will have the decided effect of conserving the public funds when highways are widened.

One practice in writing setback line provisions of planning and zoning ordinances, is to classify the highways somewhat as follows: Class "A" highways are, in general, the U. S. highways, the State trunk highways and other roads which may be of comparable importance. In this class the setback line may be established at, say, 100 ft. from the center line, which means 67 ft. from the right-of-way, of a four-rod road. The highways of next importance in the county may be classed as "B" and a setback line established at, say, 75 ft. from the center line, which means 42 ft. from the right-of-way of the four-rod road. Other classifications may be added as the special conditions warrant. Provision should always be made for a minimum setback appropriate to the conditions. Experience in Wisconsin indicates that more than 90 per cent of the farm buildings presently existing are without the setback lines established as here indicated, and therefore unaffected by them.

A further necessary application of this principle is at the intersections of all highways, where an additional cut-off is made across the corner at points which may be located about 50 ft. from the intersection of the setback lines. At the intersection of highways with railways, the same principle is applied but the points from which the cut-off is made are at greater distances, say, 100 ft. from the intersection of the railway right-of-way line and the highway setback line.

SECTION IX - NON-CONFORMING USES. When zoning district boundaries and regulations have been adopted, the disposition of non-conforming uses will always present a problem. The enabling act should definitely say that the lawful use of buildings or premises existing at the time of adoption of a zoning ordinance may be continued, although such use does not conform to the regulation applicable to the district, under the ordinance. This section, therefore, should contain a statement to that effect, in accordance with such statutory provisions. The same principle applies when district boundaries are changed and other non-conforming uses are created. However, the ordinance should also provide that, when the non-conforming use of a building or premises is changed or abandoned, any future use must be in conformity with the ordinance. In this manner, non-conforming uses will be eliminated gradually and painlessly with the progress of time.

SECTION X - UNCOMPLETED AND PARTIALLY DESTROYED BUILDING. It is good practice to provide for permitting the completion of all buildings which have been started or for which bonafide plans have been made previous to adoption of the ordinance; also that non-conforming uses which may have been partially destroyed by fire, explosion, etc., to the extent of a stated proportion of their value (which may be any proportion less than 65 per cent, for instance) may be restored and used for the same purposes as those previous to such destruction. However, if a non-conforming use is destroyed to a greater proportion than that indicated, it should not be permitted to be restored, unless the future use conforms to the regulations applicable to the district in which it is located.

This section is intended to protect all lawful uses existing at the time of the adoption of the ordinance. Sometimes regulations are made retroactive. This practice may have some virtue in special instances, but zoning is most successful when it has strong popular support as being fair; and while retroactive features may be desirable, they will generally be regarded as unfair and almost inevitably arouse antagonism. The ultimate effect of zoning will come about through the abandonment of non-conforming uses in the course of time. The only difference which will arise through reasonable protection of existing uses is in the time involved and the attitude of the public.

SECTION XI - BOUNDARIES OF DISTRICTS. The method of determining the boundaries of the districts shown on the map should be described in a separate section. It is sometimes difficult to show on a map, drawn to any reasonable scale, the exact location of a district boundary line, and therefore the ordinance should state by distances measured from street or highway intersection lines where these district boundary lines are located in reference to highways, railways, section, half-section and quarter-section lines. This map should always show the scale to which it is drawn as a further aid in the determination of such boundary lines.

In general, district boundary lines should be so established that both sides of a road or street are in the same district. Widely differing regulations on opposite sides of a highway will be found to be difficult to maintain.

SECTION XII - INTERPRETATION AND APPLICATION. It is necessary to set forth clearly the fact that the ordinance does not intend to interfere with, abrogate or annul any existing easements, covenants or other agreements between parties as to the land affected by the ordinance, nor to repeal, abrogate, annul, or in any way impair or interfere with any existing ordinances, or any other valid rules, regulations, agreements or permits previously adopted. However, a provision should be included to the effect that where the district zoning regulations under the ordinance proposed will impose greater restriction than any previous agreements, easements, etc., then the zoning regulations will apply.

The exercise of the police power through a zoning ordinance cannot have the effect of confiscating private property. Therefore, the ordinance should here provide that insofar as building lots are concerned, buildings may be erected upon any lot irrespective of its size, in conformity with the use regulations of the district in which it is located, provided that such a lot was recorded as such in single ownership previous to date of the adoption of the ordinance. The intention here is to make usable all previously recorded lots irrespective of their size, but only for the permitted uses. The proper accomplishment of this objective is best brought about as one of the functions of the Board of Adjustment as discussed in the next section.

SECTION XIII - BOARD OF ADJUSTMENT. It must be obvious that the complexities involved in planning and zoning ordinances are such that it is difficult, and may even be impossible, to draft regulations as proposed, in such way that every existing or possible situation in a county can be foreseen and provided for in the ordinances. Recognizing this fact, a board of adjustment is necessary and should be provided for. The purpose of this board is to prevent unreasonable and unnecessary hardships that might be inflicted through the inflexible and undeviating operation of the ordinance. Such a body can consist of three or more members appointed by the chairman of the county governing body with the approval of such body. None of the members should have his residence in any incorporated city or village nor shall any two members live in the same town. Members should serve without compensation, for a specified term, only one term expiring at any one time.

The enabling act, in providing for such a board should also set up its powers and duties. Without discussing the detailed phraseology of such a provision, it may be said that these powers are, substantially as follows: That where there are very great practical difficulties or unreasonable and unnecessary hardships in the way of carrying out the strict letter of the ordinance, the board of adjustment shall have the power, upon appeals, to authorize such variance as will not be subversive of the public interest or contrary to the intent of the ordinance,

which will maintain the purpose and intent of the ordinance and cause substantial justice to be done; provided that no such variance shall have the effect, in any district, of permitting uses prohibited in that district.

The board of adjustment should have the authority and the duty to adopt rules of procedure for entering appeals, for proper hearing, and should be required to act within a reasonable or specified time. Further, it should be empowered to call upon any other bureau of body for any assistance it may need to arrive at its decisions. Its records should be public, and persons having business with it be permitted to appear either in person or by attorney.

SECTION XIV - AMENDMENTS TO THE ORDINANCE. Provision must be made in the enabling act for the amendment of any ordinance adopted under it at any time that circumstances require. The method of amendment should be stated in the enabling act, and should preferably be the same as the method of adoption. Consideration of such amendments might be initiated by petition of a group of individuals, a local governing body affected, the county park commission or the county governing body itself. But before such an amendment can be adopted, it should pass through the same procedure as is required for the ordinance itself.

Provision for amending a planning and zoning ordinance is absolutely necessary and too great difficulty should not be involved. However, provision must be made for proper consideration of any objections to amendments which might be made by those affected. It is customary, when such an objection is of great strength, to require a favorable vote of two-thirds or three-fourths of the governing legislative body in order to adopt the amendment. This prevents hasty and ill-considered changes, and while the ordinance is somewhat stiffened in this case, it is by no means rigid.

SECTION XV - ENFORCEMENT, VIOLATION AND PENALTY. Provision is made here to the effect that the ordinance shall be enforced by or under the direction of the county governing body.

Penalties for the violation of the terms of the ordinance are also provided. This is usually in the nature of a fine of some $10 to $100 or $200, or a term of imprisonment in the county jail in lieu thereof, or both. It should definitely be provided that every day in which a violation continues shall constitute a separate offense.

Compliance with the terms of the ordinance may be enforced by injunctional order at the suit of the county or the owner or owners of real estate within that district affected by the regulations of the ordinance.

No ordinance of this kind will have any value whatsoever unless proper provisions are made for its enforcement. One of the best provisions for this purpose is by means of a separate ordinance requiring a building permit before any construction can be undertaken. Such a permit would describe the size, location, type of construction, proposed use and cost of the building, the district in which it is located, the ownership of the building, the owner of the land upon which it is to be constructed and also its location in reference to the highway setback lines. No fee need be required, but such an ordinance specified that construction begin within a reasonable time from the date of issuance and be diligently prosecuted thereafter. A further provision should be made to the effect that the permit can be revoked in case the building and its proposed use does not comply with the information furnished on the permit application. Where discussion has been held as to this method of enforcement, it appears that no unreasonable hardship is inflicted.

SECTION XVI - SAVING CLAUSE. This section provides that the terms and provisions of the ordinance shall be deemed severable, and that, if any provision or the application of any provision is held invalid, the remainder of the ordinance shall not be affected thereby.

SECTION XVII - REPEAL OF CONFLICTING ORDINANCES. All previously existing ordinances or parts of ordinances in conflict with terms of the zoning ordinance ought to be repealed, specifically by ordinance or provision. The usual general statement to that effect is not sufficient.

The authorities should carefully check the zoning regulations against any existing ordinances and take action accordingly.

SECTION XVIII - EFFECTIVE DATE. The ordinance should be made effective immediately upon its passage and publication, or at a specified time thereafter. The wording of this section is to be in accordance with the local practice.

WISCONSIN EXPERIENCE

The State of Wisconsin now has twenty-seven counties that have adopted planning and zoning ordinances; therefore, the methods pursued and the experience gained in that State may be of interest here.

The State Enabling Act is quoted as follows:

"Zoning Power. (1) The county board of any county may by ordinance regulate, restrict and determine the areas within which agriculture, forestry and recreation may be conducted, the location of roads, schools, trades and industries, the location, height, bulk number of stories, and size of buildings and other structures, the percentage of lot which may be occupied, size of yards, courts, and

other open spaces, the density and distribution of population, and the location of buildings designed for specified uses, and establish districts of such number, shape and area, and may also establish setback building lines, and may further regulate, restrict, and determine the areas along natural water courses, channels, streams, and creeks in which trades and industries, and the location of buildings for specified uses may be prohibited, and may adopt an official map which shall show thereon the natural water courses, channels, streams, and creeks and the areas along such natural water courses, channels, streams and creeks which may be restricted, outside the limits of incorporated villages and cities, as such county board may deem best suited to carry out the purposes of this section. For each such district, regulations may be imposed designating the location, height, bulk, number of stories, and size of buildings and other structures, percentage of density and distribution of population, and the trades, industries or purposes that shall be included or subjected to special regulations and designating the uses for which buildings may not be erected or altered; provided, however, that the said county board shall before it adopts such ordinance or ordinances, submit the same to the town board or town boards of the town or towns in which may be situated any lands affected by such ordinance, and thereupon obtain the approval of said town board or town boards, so far as the same affects the lands in such town or towns, and in like manner any and all ordinances, which may amend any ordinance, which have been adopted as herein provided, shall be submitted to said town boards of the towns in which said lands are located and their approval obtained as to each of such changes before the same shall be adopted by the county board. Such ordinance or amendments thereto may be adopted as to such town or towns which shall have given their approval thereto.

"(2) If such county has a county park commission or rural planning board organized as provided by law, such commission or board shall recommend boundaries of such districts and appropriate regulations and restrictions to be imposed therein. The county park commission or rural planning board shall first formulate a tentative report and shall hold public hearings thereon before submitting a final report to the county board. After such final report is submitted, and the ordinance pursuant thereto adopted, the county board may from time to time alter, supplement or change the boundaries or regulations contained in such ordinance in the manner herein set forth, but not less than ten days' notice of any such proposed changes shall first be published in the official newspapers for publication in such county, and a hearing be granted to any person interested, at a time and place to be specified in the notice. Each such notice shall be published at least three times during the ten days prior to the date of hearing.

"(2a) When any county acquires lands by tax deeds, the county board may exchange any such lands for other lands in the county for the purpose of promoting the regulation and restriction of agricultural and forestry lands.

"(3) In case a protest against a proposed amendment, supplement, or change be presented, duly signed and acknowledged by the owners of twenty percentum or more of the frontage proposed to be altered, or by the owners of at least twenty percentum of the frontage immediately in the rear thereof, or by the owners of at least twenty percentum of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed except by a three-fourths vote of the county board of supervisors.

"(4) The county board shall prescribe such rules and regulations as it may deem necessary for the enforcement of the provisions hereof, and of all ordinances enacted in pursuance thereof. Such rules and regulations and the districts, setback building lines and regulations specified in subsection (1) shall be prescribed by ordinances which shall be designed to promote the public health, safety and general welfare. Such ordinances shall be enforced by appropriate fines and penalties. Compliance with such ordinances may be also enforced by injunctional order at the suit of such county or the owner or owners of such real estate within the district affected by such regulations. Such ordinances shall not prohibit the continuance of the use of any building or premises for any trade or industry for which such building or premises are used at the time such ordinances take effect, but the alteration of, or addition to, any existing building or structure for the purpose of carrying on any prohibited trade or new industry within the district where such buildings or structures are located may be prohibited.

"(5) The powers herein granted shall be liberally construed in favor of the county exercising them, and this section shall not be construed to limit or repeal any powers now possessed by any such county.

"(6) The county board may by ordinance zone any lands owned by the county without necessity of securing the approval of the town boards of the towns wherein such lands are situated and without following the procedure outlined in subsection (2).

"(7a) Immediately after the publication of a county zoning ordinance, it shall be the duty of the board of supervisors of such county to cause to be made a record of the present use of all buildings and premises used for purposes not in conformity with the regulations of the district in which such buildings and premises are situated, such record to contain the name and addresses of the owner or owners of such nonconforming use, and of any occupant other than the owner, the legal description or descriptions of land and the nature and extent of land use. Such record shall be published for three successive weeks in a newspaper having general circulation in the county. Within sixty days after such final publication, upon presentation of proof to the county board, errors or omissions may be corrected in such record. On expiration of such sixty-day period

such record shall be filed in the office of the county clerk and a certified copy thereof in the office of the register of deeds. Such record shall constitute prima facie evidence of the extent and number of non-conforming uses existing at the time the ordinance became effective.

"(7b) Errors or omissions in such record shall be corrected by the county board upon the petition by any citizen or by the board on its own motion. Its decision in such matters shall be final.

"(7c) The county clerk shall furnish to each town assessor immediately after the filing of the record of non-conforming uses, a record of the non-conforming uses lying within the assessment district of the said town assessor. After the assessment of the following year and after each succeeding assessment thereafter the town assessor shall file a written report certified by the board of review with the register of deeds listing all non-conforming uses which have been discontinued between the assessment periods. If a non-conforming use has been discontinued any future use of such building, land or premise shall be in conformity with the provisions of the ordinance regulating land uses in the district. The register of deeds and county clerk shall record discontinued non-conforming uses as soon as reported by the assessors.

"(7d) The provisions of this subsection shall not apply to those counties issuing building permits as a means of enforcing the zoning ordinance or of checking non-conforming uses or to counties which have instituted other devices for this purpose".

The first step is a resolution of the county board directing the county park commission to prepare a tentative report and ordinance. The next step, a series of thorough studies of the present status of the county. Such studies consist of maps showing such things as soils, topography, highway, transportation facilities, bedrock geology, population spot maps, land covers, present land use, the location and use of all present buildings and any other study which is pertinent to land use regulations. Statistical studies covering such things as county finance, population and county economics should be made. All of these studies should be prepared in permanent form so that a complete record of the existing situation may be made. Aerial photographs will be found to be of great value in this work.

After completing the basic studies, they must be thoroughly digested. From this study is produced the proposed land use regulations and the district boundaries. Having done this, the Commission holds public hearings. Here let it be emphatically stated that the more hearings the better, too many such hearings can scarcely be held. In fact, the Commission should not confine itself to the minimum re-

quirements of the law insofar as it applies to public knowledge of what is proposed. Any additional steps which will increase the public knowledge and tend to enhance popular support for the ordinance should be taken. Therefore, the Commission shall hold hearings as frequently as is necessary and desirable and should give every opportunity possible for those affected to be heard and to express their opinion. The county park commission then decides the final form of the ordinance and report, and submits the same with its recommendation. The county board, in turn, has the authority to change, amend or reject the ordinance as it sees fit. The county board may then approve of the ordinance for submission to the town boards, as is required by the Wisconsin statute. They, in turn, then have the right to approve or reject as the ordinance affects that town. Having submitted the ordinance to the towns, the county board may then adopt the ordinance, which will be effective only in those towns whose town boards have approved of its terms as it affects them. This does not mean that towns whose boards have not approved the ordinance may not, at some future date, approve and come under its regulations if they so desire. The intent of the Wisconsin Enabling Act is that the acceptance of any regulations such as are proposed in the zoning ordinance shall rest with the towns through their respective town boards. The function of the county board is that of deciding whether or not a planning and zoning ordinance should be considered, the drafting of the ordinance and its submission to the towns for their acceptance or rejection. By approving of such an ordinance, the county board decides that the ordinance is deemed necessary and desirable, and that, should the towns desire to guide their future development, they may do so along the previously agreed upon lines. The Wisconsin procedure here set forth has been successful in that State. When a zoning ordinance is adopted, the citizenry is thoroughly familiar with its terms and knows what to expect from its operation.

In all of this procedure for the development of a county plan, there is one step that cannot be emphasized too strongly and that is that the public be taken into the full confidence of the authorities at all times. Further, that no effort which will increase popular understanding can be neglected and nothing is to be done which may tend to create the impression that something is being forced on the community. Such a circumstance would be fatal.