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BULLETIN NO. 27 ON POLICY AND PROCEDURE

entitled

"ZONING AND REZONING FOR USHA-AIDED PROJECTS"

This Bulletin is designed to aid local housing authorities in solving their zoning problems. The Bulletin is specific rather than general. It makes no effort to discuss the general philosophy of zoning, but indicates the nature and necessity of zoning, the considerations which determine the precise type of zoning or rezoning necessary for a project, and the methods of effecting the necessary zoning or rezoning. A more detailed statement of the "Scope and Content" of the Bulletin is contained on page 1 of the Bulletin itself. A Table of Contents is also included on the following page. This Table of Contents should be detached from the Bulletin and added as page 18 to the "List and Table of Contents of Bulletins on Policy and Procedure" which was previously issued. This "Covering Page" should also be detached when the Bulletin is placed in your binder with the other Bulletins on Policy and Procedure.

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(Dated November 25, 1939)

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NOTE: Please detach this page and add as page 19 to the "List and Table of Contents of Bulletins on Policy and Procedure" previously issued.

UNITED STATES HOUSING AUTHORITY
BULLETIN NO. 27 ON POLICY AND PROCEDURE
ZONING AND REZONING FOR USHA-AIDED PROJECTS

SCOPE AND CONTENT.

This Bulletin sets forth (I) the nature of zoning^{1/}, the methods of enforcing the zoning ordinance, and the manner in which the local housing authority may participate in its enforcement; (II) the relationship of on-site or "permissive" zoning or rezoning, and off-site or "protective" zoning or rezoning, to the USHA-Aided program; (III) the relationship of permissive zoning and rezoning to the acquisition and use of the project site; (IV) the relationship of protective zoning and rezoning to the area surrounding the project site; (V) the procedure for amending the zoning ordinance and the procedure for obtaining "variances" or exceptions from the zoning ordinance; and (VI) the procedure for obtaining the enactment or adoption of a zoning ordinance in a city without zoning.

The attention of the local authority is invited to the fact that the Cooperation Agreement executed between it and the city supplies an ample basis for requesting any zoning or rezoning necessary for the project. In virtually every such Agreement, the city undertakes to zone or rezone, to an appropriate classification, both the site of the project and the area surrounding the site. The city also agrees to take such action within a reasonable time after the local authority requests it. Thus, the local authority has, or will acquire upon execution of the Cooperation Agreement, an ample basis for requesting any necessary zoning or rezoning.

I. NATURE OF ZONING AND METHODS OF ENFORCEMENT - PARTICIPATION IN ENFORCEMENT BY THE LOCAL AUTHORITY.

(a) Nature. (1) Zoning may be defined as the regulation by municipal ordinance (or resolution) of the height, area, and use of buildings, the use of land, and the density of population. Authority to enact the zoning ordinance is usually conferred upon the local government by a general state enabling act. Some states have a single enabling act covering all municipalities in the state, irrespective of size or class. Other states have different enabling acts for municipalities of different size or class. In all states, however, the relationship

^{1/} Zoning is an instrumentality of city planning. See Bulletin No. 18, entitled "Site Selection", for a discussion of the relationship between site selection and city planning and the relationship between zoning and city planning.

between the applicable state enabling act and the municipal zoning ordinance is close and all the requirements of the act must be strictly complied with, particularly those with respect to notice, public hearing, publication, and other procedural matters in connection with the adoption of the zoning ordinance.

The fact that zoning regulates the use of property and the use of land, and imposes such regulations by districts, constitutes the chief distinction between zoning regulations and building code regulations, plumbing and sanitary regulations, and similar regulations designed to assure safe and sanitary structures. The latter type of regulations are not usually proscribed by districts but have general application to the city as a whole. They are designed to promote community health and safety by assuring structural strength and stability, adequate sanitary facilities, and protection from fire and disease and similar community hazards. There is no necessary relationship between such regulations and the zoning ordinance, except that they may be enforced by the same officials as the zoning ordinance.

The attention of local authorities is invited to the fact that the value of the housing program to their respective communities will be substantially decreased unless steps are taken to preclude the social forces tending to create slums from operating to the detriment of their respective projects. Zoning or rezoning supplies an effective means of obtaining the necessary protection, particularly against the invasion of value-depreciating uses such as those indicated in paragraph IV-(a), below.

(2) Use districts. Perhaps the most distinctive characteristic of zoning arises from its regulation of the use of property. Thus, the zoning ordinance divides the city into "use districts" and either prohibits (if it is the "prohibitive or exclusive" type of ordinance) the uses inappropriate for each district or specified (if it is the "inclusive or permissive" type of ordinance) the uses appropriate for each district. For example, the exclusive type of ordinance prohibits business uses in residential districts, industrial uses in business districts, and so forth. Conversely, the inclusive type of ordinance specifies residential uses for residential districts, business uses for business districts. The various use districts and their respective boundaries are customarily set out on a map known as the "zone map" or "use district map". This map is made an integral part of the zoning ordinance.

(3) Height and area districts. Another feature of zoning is its regulation of the height of buildings and the percentage or area of their respective lots which they may occupy. Thus, in addition to use districts, the city may also be divided into (i) "height districts" for

which maximum heights for buildings are set forth, and (ii) "area districts" for which minimum dimensions of yards and courts and other open spaces and maximum percentages of lot occupancy are prescribed. Height and area districts may be designated as such on maps known as "height district maps" and "area district maps", respectively. In some of the larger cities height districts and area districts are set forth separately and have no necessary relationship to the use districts. Indeed, a height or area district may overlap one or more use districts. In the smaller cities, however, height and area regulations are customarily applied by use districts and no separate height or area districts are created.

(4) Density regulations. Control of the density of population is another function of zoning. Population density may be controlled by a provision in the zoning ordinance limiting the number of families per acre or prescribing a minimum number of square feet of lot per family. Similarly, the zoning ordinance may establish a minimum number of lineal feet of street frontage per family. However, the power to regulate population densities must be specifically granted to the local government in the state enabling act. It cannot be inferred from the power to create area districts or to regulate the use of land.

(b) Methods of enforcement. The requirement of a permit for the construction of buildings or improvements supplies the most routine method of enforcing the zoning ordinance. The application for the permit must be accompanied by plans indicating the character of the proposed building, its location, the area or percentage of the lot to be occupied, the area of yard and court spaces, the height of the building, and its relationship to the other requirements of the zoning ordinance. The application and accompanying data should be sufficient to identify the building or improvement and to supply adequate information for a preliminary determination as to whether the provisions of the zoning ordinance will be met. The application for the permit will, of course, be denied unless the plans and supporting data are consistent with the ordinance.

The certificate of occupancy, which is ordinarily required in all the larger cities before a structure may be used or occupied, supplies another method for checking compliance with the zoning ordinance as well as with the building permit. After the building has been completed the local officials can determine the actual height of the building, the actual area of its yards and courts, and the actual percentage of lot occupied. The uses to which the building may be put can also be more satisfactorily determined at this stage than at the time when the application for the building permit was considered.

In addition to these two administrative methods of enforcing the zoning ordinance, property owners (including, of course, the local authority) may also obtain, in proper cases, injunctions to prevent violations of the ordinance.

(c) Participation in enforcement by the local authority. The local authority, just as other interested property owners, should participate in the enforcement of the zoning ordinance. Thus, the local authority should protest against the issuance of any building or occupancy permit for any building or improvement which, as planned or designed, appears calculated (1) to violate the provisions of the ordinance applicable to the zoning district containing the project and (2) to impair the residential character of the project. Similarly, the local authority should apply for the revocation of any building or occupancy permit for any building or improvement in such district which, as constructed or used, fails to comply with the provisions of the ordinance and impairs the residential character of the project. Upon the filing of such a protest or application for revocation, the proper local officials will examine the situation and will, in appropriate instances, revoke the permit or certificate involved.

In cases where the project comprises property which would be "affected" (as defined in paragraph V-(a) below) by a variance from the zoning ordinance or an amendment thereof, the local authority should protest against any such variance or amendment which would permit construction or uses calculated to decrease the desirability of the project site. The filing of a protest against the variance or amendment by the owners of a sufficient amount of "affected property" will ordinarily make it necessary to obtain considerably more than a majority vote of the appropriate local body to secure the variance or amendment. Accordingly, the filing of a protest by a large property owner such as the local authority may, in certain cases, be enough to preclude the obtaining of an undesirable variance or amendment.

Active participation in enforcement by the local authority, in the manner specified in this subparagraph (c), will aid substantially in assuring maximum protection for the project against undesirable developments in the surrounding area.

II. RELATIONSHIP OF ZONING AND REZONING TO THE USHA-AIDED PROGRAM.

(a) Permissive zoning or rezoning. The term "permissive zoning or rezoning", as used in this Bulletin, refers to those amendments of the zoning ordinance or variances therefrom which are sometimes necessary to enable the local authority to build the project in the manner contemplated by the USHA-Aided program. In such cases, an amendment of the

zoning ordinance or a variance therefrom will be essential and the USHA cannot approve a proposed site until (1) the necessary variance or amendment has been secured or (2) satisfactory assurances have been obtained that it can be secured. This phase of the problem and the situations in which amendments or variances are respectively appropriate, and the procedure for obtaining them, are discussed in paragraphs III and V below.

(b) Protective zoning or rezoning. The term "protective zoning or rezoning", as used in this Bulletin, refers to the zoning or rezoning of the area immediately surrounding the project site which is sometimes necessary to assure adequate protection for the project against undesirable developments in the immediate neighborhood. Protective zoning may be necessary both in cases where the project site constitutes a separate zoning district and in situations where it comprises merely a portion of a zoning district. In some cases the obtaining of protective zoning or rezoning, or the procuring of assurances that it can be obtained, will be a condition precedent to the advance of funds for construction under the Loan Contract. Protective zoning or rezoning can be achieved (1) by the enactment of a zoning ordinance in cities without zoning or (2) by the amendment of an unsatisfactory zoning ordinance (i) to prohibit uses permitted thereunder which are not presently existing, (ii) to create buffer or marginal districts, or (iii) to change the classifications of the surrounding zoning districts. The situations in which protective zoning or rezoning is required and the appropriate methods of effecting it are discussed in paragraphs IV and V below.

(c) Consultations with local officials. In studying the relationship of the zoning ordinance to the proposed site and in considering zoning problems with respect to the surrounding area, the local authority should consult with the city officials responsible for administering and enforcing the zoning ordinance. In cities with a Planning or Zoning Commission, the local authority should also secure written approval from the Commission of any necessary zoning or rezoning and an expression of its cooperation in obtaining any such zoning or rezoning.

(d) Consultations with USHA representatives. The attention of local authorities is invited to the fact that City Planning Consultants, who are experts on zoning matters, will be made available by the USHA for consultations on zoning problems. Local authorities are urged to request the services of these Consultants in cases in which difficulties arise (1) in determining the zoning or rezoning necessary for the project or (2) in determining the appropriate method of effecting such zoning or rezoning. The services of these Consultants will, if practicable, be made available by the USHA immediately upon request.

III. RELATIONSHIP OF ZONING AND REZONING TO THE ACQUISITION AND USE OF THE PROJECT SITE (I.E., ON-SITE OR "PERMISSIVE" ZONING OR RE-ZONING.)

(a) General. The effect of the zoning ordinance upon each proposed project site must be determined in the initial stages of site selection. (Otherwise, the local authority may not discover until after acquisition of the site that the limitations and requirements of the ordinance are such that the type of project desired cannot be built thereon without obtaining an amendment of the zoning ordinance or a variance from it.) The zoning ordinance consists of the text of the regulations together with the maps which set forth the various types of districts established thereby. Accordingly, both the regulations themselves and the accompanying maps (i.e., the use map and the height and area maps, if any) should be carefully studied before the site is finally selected.

(b) Limitations and requirements as to use of the project site. The limitations and requirements of the zoning ordinance may affect the location of the project, the site plan, and the design of the buildings comprising the project. The size and extent of housing projects, together with their layouts, differ somewhat from the conventional building practices in most cities. Zoning ordinances are ordinarily designed to govern the placing of buildings on properties having the customary street and lot layout. Except in some of our oldest cities, residence structures, whether apartments or private dwellings, have been erected upon individual "lots" or parcels of land. For purposes of USHA-Aided projects, the ordinance should permit multiple buildings (such as row houses, flats, or apartments) and their location without relation to lot lines. Similarly, the ordinance should permit construction of the necessary accessory buildings for the project, such as office buildings, service buildings, power plants, and the like.

(c) Typical limitations and requirements. The following are the more typical limitations and requirements found in zoning ordinances which should be especially noted and checked for USHA-Aided projects:

- (1) Limitations as to the number of dwelling units per structure.
- (2) Limitations as to the height of structures.
- (3) Limitations as to non-dwelling facilities or "accessory buildings".
- (4) Requirements as to dwellings facing public streets.

(5) Requirements as to "population density" (i.e., maximum number of families per acre or the minimum number of square feet per family).

(6) Requirements as to set-back from street lines.

(7) Requirements as to side yards and rear yards for each dwelling.

(8) Requirements as to minimum dimensions of yards and courts and maximum percentages of lot occupancy.

If the proposed site is subject to zoning regulations which would interfere with the proper development of the project, an amendment of the ordinance or a variance therefrom must be secured. Usually a variance will supply the necessary latitude. If not, the ordinance should be amended, preferably by a provision which specifically authorizes comprehensively planned housing projects.

Until the local authority has demonstrated that the proposed site is not subject to any limitations or requirements which would prevent the proper development of the project, or that any necessary amendment or variance can be secured, the Loan Application cannot be approved. If it is impossible to secure any necessary amendment or variance, or to obtain assurances that it can be obtained, the only alternative will be the abandonment of the proposed site. Accordingly, the local authority should make certain that the Application for Financial Assistance, at the time of its submission to the USHA, contains assurances that any necessary amendment of the zoning ordinance, or any necessary variance therefrom, can be secured.

IV. RELATIONSHIP OF ZONING AND REZONING TO THE AREA SURROUNDING THE PROJECT SITE (I.E., OFF-SITE OR "PROTECTIVE" ZONING OR REZONING).

(a) General. In addition to obtaining any amendments of the zoning ordinance or variances therefrom necessary to permit construction on the project site in the manner contemplated by the USHA-Aided program, the local authority must also secure adequate protection for the project against harmful influences in the surrounding area. A careful study of the area surrounding the project site should be made in order to formulate a plan for any required zoning or rezoning. (As indicated in paragraph II-(d) above, the USHA will make City Planning Consultants available to assist in such work.) This study becomes particularly essential when the project site is in a slum area. Such areas are frequently located within business or industrial zoning districts. Injurious and value-depreciating uses which will impair the residential

character of the project are frequently permitted in such districts, particularly in industrial districts, although they may not necessarily be presently existing therein. Examples of such uses are:

- (1) Uses creating fire hazards such as lumber yards, warehouses storing combustible materials, oil refineries or storage yards.
- (2) Uses creating noxious or offensive odors such as fertilizer plants or chemical plants.
- (3) Uses creating excessive noises or involving activity during normal sleeping hours such as boiler works or railroad switching yards.
- (4) Uses creating excessive smoke such as blast furnaces or railroad roundhouses.
- (5) Unsightly uses such as auto wrecking yards or scrap iron yards.

Methods of minimizing or reducing the harmful effect of such uses are discussed in subparagraphs (b), (c), and (d) below.

Due to the legal difficulties involved in eliminating existing injurious or value-depreciating uses, the local authority should be extremely cautious in entering districts which contain any material number of uses such as those enumerated in (1) through (5) above.

(b) Special protective districts: protective amendments. In situations where zoning or rezoning of the surrounding area is necessary for the protection of the project, the local authority should consider the advisability of sponsoring the creation of "marginal" or "buffer" residential districts, smaller in area than the regular zoning districts. Such districts may be designed to supply a protective belt around the project so as to prevent the development of business or industrial uses near the project boundaries. The establishment of such uses in this area may impede future expansion of the project. If special circumstances make it advisable to permit the development of a few business uses, such as drug stores, food shops, and personal service establishments, on the periphery of the project, the local authority should make certain that the ordinance limits such uses to land which will not be required for future expansion.

The attention of local authorities is also invited to the fact that the project may, in some cases, be given increased protection by obtaining an amendment of the zoning regulations applicable to the surrounding area so as to preclude undesirable buildings and uses permitted by the regulations but not presently existing in the area. Thus, portions of

the surrounding area may be zoned for light business uses for the provisions of the ordinance may be so loosely drawn that light manufacturing establishments, large laundries, wholesale bakeries, and the like, may be constructed in the area. In cases of this sort the local authority should obtain amendments permanently excluding such uses from the surrounding area.

(c) Vacant surrounding areas: "interim" ordinances. If the area selected for the project site is located in a section of the city which is largely vacant, equal care must be exercised to obtain proper zoning or rezoning of the surrounding areas. In circumstances where the surrounding vacant properties are zoned for business or industrial uses, the local authority must obtain the rezoning on the surrounding properties necessary (1) to protect the site from the uncertainties of harmful future uses and (2) to afford stability and desirability to the surroundings for living purposes.

The local authority should also consider sponsoring the formulation and adoption of an "interim ordinance" (which does not require a zoning map) in situations where it is necessary to protect the character of the neighborhood until the permanent ordinance and map can be prepared and adopted. An interim ordinance supplies only temporary protection. Such protection may, however, be highly desirable in situations where an invasion of gasoline filling stations, garages, lumber yards, and similar uses, is imminent and will occur before the permanent ordinance and map excluding them can be formulated and adopted.

(d) Nonconforming buildings and uses.^{2/} The attention of local authorities is invited to a possible distinction between nonconforming uses of land and nonconforming uses of buildings. Nonconforming buildings existing on the effective date of the ordinance cannot usually be ousted under the typical zoning ordinance, but an existing nonconforming use of land may, in some cases, be ousted, if the clause of the ordinance authorizing the continuance of nonconforming uses does not refer specifically to land and the applicable state enabling act does not preclude all retro-active zoning regulations. Thus, automobile wrecking yards, parking yards, junk yards, open-air garages, and the like, even though existing on the effective date of the ordinance, may in some cases be prohibited for the future. However, even in such cases, a reasonable period of time should ordinarily be given for the liquidation of the nonconforming use.

^{2/} Nonconforming buildings and uses are buildings and uses which do not conform to the zoning ordinance. They may exist in a zoning district either (a) because they existed on the effective date of the zoning ordinance and cannot be ousted or (b) because a variance or exception has been obtained therefor.

(e) Importance of protective zoning or rezoning. Zoning or rezoning of the area surrounding the project site is sometimes essential to the proper development of the project. In such cases the initiation of any necessary off-site zoning or rezoning may, in the discretion of the USHA, be made a condition precedent to the advance of funds for construction under the Loan Contract. However, the USHA realizes that the local authority may not always be able to procure the adoption of a zoning ordinance, or the amendment of an unsatisfactory zoning ordinance, before acquisition of the site. Such protective zoning or rezoning may, accordingly, be deferred in appropriate instances. In order to avoid delay at a later date, the opinion of the USHA as to the necessity, and the time, for securing any necessary off-site zoning or rezoning should be sought as soon as practicable during the preparation of the Application for Financial Assistance.

V. PROCEDURE FOR AMENDING THE ZONING ORDINANCE AND OBTAINING VARIANCES THEREFROM.

(a) Procedure for amending the zoning ordinance. (1) Ordinarily the amendment of a zoning ordinance (or maps) is initiated by petition from property owners to the local legislative body. After receipt of the petition, a previously advertised public hearing is required and a report is necessary from the City Planning or Zoning Commission. The amendment may then be adopted by the local legislative body in the same manner as amendments to other ordinances, unless the owners of a specified percentage (ordinarily twenty per cent) of the property most affected by the proposed amendment object to the amendment at the public hearing. If the owners of the specified percentage of affected property object, considerably more than a majority vote of the local legislative body is ordinarily required for the adoption of the amendment.

The property owners who are "affected" by, and who may protest against, an amendment of the ordinance are generally specified in the state enabling act. The largest group of such owners comprises the persons owning land in the district to be rezoned. Another group consists of the owners of land across the street from the property to be rezoned. The third group comprises the owners of contiguous land at the side or in the rear of the property to be rezoned. Such property owners compose three separate groups. Protest from owners of the specified percentage of affected property, drawn from any one of the three groups, will generally be enough to make it necessary to obtain more than a majority vote (ordinarily a two-thirds or four-fifths vote) of the local legislative body in order to obtain adoption of the amendment.

(2) The state enabling act should always be checked for any special limitations or requirements as to amendments. Similarly, where the city is operating under a city charter, the charter should be examined for any

specific requirements. Finally, the ordinance itself should be consulted for provisions as to amendments. No amendments of the ordinance will be effective until all requirements as to notice, hearing, publication, service, and so on, have been satisfied.

(3) Considerable time is ordinarily required to secure final adoption of amendments. Accordingly, the local authority should take the necessary initial steps immediately after site selection. If an amendment of the zoning ordinance is necessary to permit the development of the project on the proposed site, the amendment should be finally enacted, and in effect, prior to acquiring title to any parcel of the site.

(b) Procedure for obtaining variances from the zoning ordinance.

(1) In cases where the local authority has acquired title to the project site, the local authority should, if practicable, obtain any necessary freedom in the development of the project by obtaining a variance from the zoning ordinance rather than an amendment to it. Most zoning ordinances, as well as the courts, take cognizance of the fact that rigid and inflexible application of the limitations and requirements of the ordinance and maps as to set backs from streets, minimum areas of yards and courts, maximum percentages of lot occupancy, heights, and other limitations and requirements such as those indicated in paragraphs III-(b) and (c) above, may result in "practical difficulty and unnecessary hardship" in individual cases. However, the regular administrative officer, ordinarily the building inspector or supervisor, must be required to follow the applicable provisions of the zoning ordinance in granting or denying building permits. Chaos would result if he were permitted to follow such provisions or depart from them at his discretion. The necessary flexibility in the application of the zoning regulations is supplied by the Board of Appeals or Adjustment which is ordinarily provided for in the state enabling act. The Board is customarily given the general power to grant variances in cases of "practical difficulty or unnecessary hardship." Sometimes the Board is also authorized to grant special variances or exceptions if certain carefully prescribed and detailed conditions exist with respect to specified types of property or specified types of uses. The jurisdiction of the Board does not, however, include the power to amend: amendment of the zoning ordinance or map, as indicated in subparagraph (a) above, can be effected only by the legislative body.

(2) Usually the proper procedure for obtaining a variance from the zoning ordinance is to file a petition or application with the Board of Appeals or Adjustment, or corresponding body, requesting the necessary relaxation in the provisions of the ordinance applicable to the project. The Board may grant variances from use, height, area, and density regulations. Ordinarily less opposition will be encountered to the granting

of variances than to the adoption of amendments, particularly since any variances requested by the local authority will generally affect only a relatively few property owners.

(3) However, in cases where the "practical difficulty or unnecessary hardship" involved is general throughout the zoning district (i.e., applies to all property in the district) and does not apply peculiarly to the project, the local authority may find it impossible to obtain a variance and may be compelled to seek an amendment to the ordinance permitting comprehensively planned housing projects in the particular zoning district involved. Such an amendment will ordinarily prove advisable in situations where variances from several limitations or requirements of the ordinance are necessary. The local authority should also remember that the granting of variances by the Board from a great many limitations or requirements of the zoning ordinance, particularly if such variances are granted to applicants with great frequency, may tend to impair the comprehensive zoning plan designed for the city. The local authority, as a public agency concerned with improving living conditions in the community, should be particularly careful not to request any action which would tend to distort the zoning plan. Variances should generally be requested only where a relatively few relaxations of the zoning ordinance are necessary for the project.

(4) The attention of local authorities is again invited to the fact that the acquisition of a suitable site, suitably zoned, does not necessarily supply complete protection for the project. As indicated in paragraph I-(c) above, the local authority must also be vigilant in protesting to the Board of Appeals or Adjustment against the granting of any variances which would permit uses or construction tending to decrease the desirability of the project for residential purposes. Some Boards require applicants for variances to post notices of their applications or petitions on or near the premises for which the variances are sought. Most Boards have adopted rules of procedure which provide for adequate notice, in some form, to interested property owners and the general public regarding applications or petitions for variances. Thus, the local authority need merely keep check on the "Official Bulletins" of the Board, the daily press, or any other medium employed by the Board for giving notice of applications or petitions for variances, to obtain information as to any pending applications or petitions which may affect its interests.

VI. PROCEDURE FOR OBTAINING THE ENACTMENT OR ADOPTION OF A ZONING ORDINANCE IN A CITY WITHOUT ZONING.

(a) Basis of zoning plan. The formulation of a zoning plan should be based on special studies of the particular city involved. Each city requires a zoning ordinance designed for its particular needs. No city

should copy blindly the zoning ordinance of another municipality. Before the zoning ordinance is formulated, the City Planning Commission, if any, or the City Zoning Commission, should study the existing use of properties in the city, the character of local neighborhoods, the building trends in the locality, and all other factors relating to the growth and development of the city. The local authority should be able to render effective assistance to the local Commission in this study by virtue of the local authority's preliminary analysis of community conditions and its special knowledge of conditions in the area immediately surrounding the project site:

(b) Necessary steps in obtaining the enactment of a zoning ordinance.

(1) General. Under state enabling acts for zoning, the first step in obtaining the zoning ordinance is generally the appointment of a City Planning or Zoning Commission. In some states, the authority to frame the zoning ordinance is vested in the City Planning Commission. In other states, the authority is conferred upon a separate Zoning Commission. In still other jurisdictions the necessary power is granted to a combined City Planning and Zoning Commission.

(2) Steps subsequent to the appointment of the Commission. The specific procedural steps required in the formulation and adoption of the zoning ordinance after the appointment of the appropriate Commission are usually set forth in the state enabling act. The procedural requirements of the act (and the ordinance) should be consulted in this connection. The following are cited as examples of the procedural steps which are generally required:

(i) The preparation by the Commission of a preliminary report on zoning and a preliminary draft of a zoning ordinance and map and delivery thereof to the local legislative body (This material is prepared on the basis of the study described in subparagraph (a) above).

(ii) The holding of a hearing on the preliminary report and the preliminary draft of the ordinance and map by the Commission.

(iii) The preparation by the Commission of a final report on zoning and a final draft of ordinance and map and delivery thereof to the local legislative body.

(iv) The advertisement of a public hearing before the local legislative body on the proposed ordinance and map.

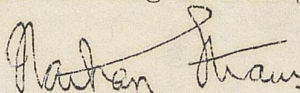
(v) The holding of a hearing by the local legislative body on the proposed ordinance and map.

(vi) The enactment or adoption of the proposed ordinance and map by the local legislative body.

The local authority, as an interested property owner, should endeavor to make certain that all procedural requirements are complied with in the formulation and adoption of any zoning ordinance sponsored by it. The omission of any of the procedural requirements, such as those set forth in (i) through (vi) above, will invalidate the ordinance.

* * * * *

Local authorities are urged to assume an active role in zoning matters. This duty devolves upon the local authority not only as a large property owner, but also as a public agency set up to improve living conditions in the community. Thus, the local authority should take all practicable steps to insure the adoption of a well-formulated zoning ordinance by the city. It should also take advantage of every means available to a local property owner for assisting local officials in enforcing the ordinance and in reducing to a minimum amendments or variances which impair the residential character of zoning districts containing USHA-Aided projects. The position of the local authority as a public agency, and the close relationship which exists between it and the local government, should enable the local authority to participate in an active, useful, and effective manner in all matters relating to zoning.


NATHAN STRAUS,
Administrator.

November 25, 1939.