The incremental impact of private developers' and landowners' actions regarding land use was precisely what had concerned zoning advocates. By the twentieth century's second decade reformist city planners and lawyers were actively campaigning for municipal land use controls. They hailed New York's comprehensive zoning ordinance in 1916 and the 1926 Supreme Court decision in the *Euclid* case, and developed the concept of comprehensive planning as zoning's theoretical basis. Real estate and other property interests, whose support the reformers needed to advance the spread of zoning, accepted public controls on their land when they realized that protecting property also protected its value. This ambiguity of zoning's purpose—for reform and planning or for property value protection—was reflected in the application of zoning during its first thirty years in Columbus, Ohio, where property interests triumphed over planning. Such a result was apparently common, for during these same thirty years planners continually reiterated the theoretical planning-zoning connection and bewailed its absence in practice.

**American City Planning Arrives at Zoning**

American city planning had not yet formalized as a profession when New York City passed the nation's first comprehensive zoning code. Nevertheless, it existed in practice. Over a period of perhaps thirty years people concerned about overcrowded and deteriorated cities had been trying to improve them. They
engaged in social, political, and economic reform activities, attempted to redesign the urban environment, and proposed idealistic alternative conceptions of the city itself. As the twentieth century's first decade ended, individuals from several disciplines and professions began to meet regularly to share ideas on and experiences with urban problems and planning. They learned of German land reform and saw in elements of it the potential to improve American cities. By the early 1910s they identified themselves as city planners and began to actively support the adoption of public land use controls. Finally, they organized the American City Planning Institute in 1917, one year after New York City adopted comprehensive zoning, an event they viewed with much promise.

Conditions in U.S. cities deteriorated in the latter nineteenth century due to increasing industrialization and immigration. Factories large and small belched smoke and poured sometimes hazardous effluent into rivers and lakes. Immigrants from rural areas and overseas met the factories' growing labor force needs. They also crowded the cities. Neither the housing supply nor public services could expand quickly enough to serve the burgeoning urban population. High rates of disease, death, and crime abounded in slum and tenement districts and competed with visual ugliness as a source of concern.¹ Such conditions gave rise to early efforts at city planning.

The modern planning profession emerged from the twin roots of reform and design in the late nineteenth century.² Reform efforts addressed various elements of the problems in overcrowded residential areas. Some focused on sanitary conditions (or their lack) and sought improved and expanded water and sewerage systems. Others focused on housing. Decrying tenements with windowless sleeping rooms and no indoor plumbing, they supported laws to regulate tenement construction. Still others focused on the social environment and educational opportunities for both children and adults. They worked in settlement houses and fought for provision of parks and playgrounds.³ Living conditions grew worse when cheap industrial workers' housing sprang up around the factories, or factories and warehouses invaded areas of homes and apartments; and nothing prevented either occurrence.⁴ Reformers sought to change that.
The sheer ugliness of late nineteenth-century cities prompted a parallel set of design efforts. Landscape designers like Frederick Law Olmsted believed large naturalistic landscaped parks—or better still, park systems—could provide both physical and visual breathing space. Members of municipal improvement societies and outdoor art organizations encouraged the beautification and adornment of public buildings and spaces. Architects, many of whom were trained in the Beaux Arts tradition, looked to London, Paris, and Vienna for inspiration when designing buildings in American cities. Art, architecture, and landscape design came together in the 1893 World's Columbian Exposition in Chicago. Built under the direction of Chicago architect Daniel Hudson Burnham, with a site plan and landscape design by Olmsted and buildings by the nation's foremost architects, the shimmering "White City" on the shore of Lake Michigan contrasted sharply with the dirty industrial city outside its gates and showed visitors what a city could look like. Nor were the reform and aesthetic efforts unconnected. In both his writings and his designs, Olmsted developed the idea of the landscape artist as moral reformer.

Burnham's work on the White City is credited with transforming him from an architect into a city planner. And though the exposition may not have been the progenitor of contemporary planning's first real movement, it certainly shared characteristics with it. The City Beautiful movement, of which Burnham was a foremost practitioner, emphasized landscape and building design on an often monumental scale as it sought to beautify American cities.

While reformers and designers pushed for change in the urban United States, there was a current forming in England that would also affect American city planning. A minor British civil servant who had spent several years in the United States and was distressed by conditions in crowded industrial cities both here and in England conceived of an alternative urban form. Ebenezer Howard's Garden City concept proposed that self-sufficient cities, with a specified cap on population and surrounded by an undevelopable agricultural greenbelt to prevent excessive growth or sprawl, be built outside the industrial cities. Drawing their residents from those cities, the garden cities would provide both housing and employment opportunities and a better quality of life for their own
citizens and for those who remained in the now less crowded industrial cities. Howard first published his ideas in an 1898 book that was reissued four years later. Both the book and the two experimental garden cities built in England attracted a great deal of attention on both sides of the Atlantic.\textsuperscript{11}

Implicit in the concerns and efforts of the reformers, the designers, and the garden city proponents were certain beliefs that would shape city planning theory and practice in decades to come. First, cities were too densely built. They needed more open space—preferably green—and for residential areas to be less crowded. Second, the mixing of industrial, commercial, and residential uses of land worked to the disadvantage of all three, aggravating the problems of congestion and deterioration. Hence, some separation of land uses would be desirable.

In 1909 a group of urban reformers, municipal officials, architects and landscape architects, and engineers met in Washington, D.C., at the first National Conference on City Planning (NCCP). Benjamin Marsh, executive secretary of New York's Committee on the Congestion of the Population, was instrumental in promoting this first meeting, and several days later he addressed the U.S. Senate Committee on the District of Columbia on housing conditions and planning in Washington. Congestion and deteriorated living conditions—and what might be done about them—were major topics at the first planning conference and at several that followed.\textsuperscript{12}

Thereafter the group met annually, sharing ideas, experiences, and observations on planning both in the United States and in Europe. The reports of each meeting were published as a Proceedings. In 1917, after meeting in Kansas City, the group formalized its organization as the American City Planning Institute. Those present at that year's conference became members, and the group established criteria to determine who might join the organization in the future. Membership required a degree in a design or engineering field and two years' city planning experience. A separate membership category was reserved for lawyers.\textsuperscript{13}

The planners also began publishing a journal to supplement their conference proceedings. Their first effort, The City Plan, began in 1915 and was short-lived. But in 1925 the American City Planning Institute began City Planning as its official publication.\textsuperscript{14}
With means of regular communication in the conference and journal, the planning profession could grow and develop.

As early as the first conference city planners learned of zoning and its potential. The early planners believed zoning would provide orderly growth to existing cities. It would lessen land speculation and relieve population congestion by limiting density. Though business leaders would promote zoning because it benefited their financial interests, the "reformers viewed it in the broader perspective of the general social welfare; zoning would improve urban housing and living conditions by controlling population distribution." Members of New York's Charity Organization Society and Committee on the Congestion of the Population, who led New York's fight for comprehensive zoning, spread reformers' views at the 1909 National Conference on City Planning. The reformist planners saw the speculative land developer as the creator of slums, and believed that regulation would remove speculative pressure on land. No more would the speculator be able to strangle the development of the city, holding large parcels of land off the market to create scarcity and drive up prices. Such increases in land rents caused private dwellings to give way "to apartment houses, and homes to slums." Although passage of the first comprehensive zoning ordinance required business support, the impetus for that ordinance came from the social reformist planners concerned with the housing conditions of the poor.

A reformist approach to public land use controls had also been the basis of zoning in Germany, the country of its origin. Germany felt the full effect of nineteenth-century industrialization and rapid population growth, particularly in urban centers, and city governments responded to reform ideas concerning workers' living conditions. German housing reformers did not believe that the free market could adequately house the working classes and called for municipally built housing to compete with that of speculative builders. Later, attributing rising land costs to developers' propensity to build at high density, they devised zoning to reduce that density. Excessive population density caused high land prices, which in turn created the housing problems of the working class; zoning could reduce that density and thus break the cycle.

Zoning developed logically from municipal building regulations, which specified building lines, yard dimensions, building
height, lot access, availability of light, street surfacing, and location of noxious industries, among other things. In 1891 the Prussian government passed a zoning act. Modeled on legislation drafted by the municipal government in Frankfurt, it allowed local authorities to divide their cities into sections and subsections and control land use within each. In the 1890s, then, several cities substituted regulatory uniformity by district or “zone,” which would allow standards appropriate to the particular use of the property, for the existing practice of imposing uniformity for the entire city. Eleven years later the Prussian state government passed another law providing Frankfurt with additional power to control land use. The city was permitted to acquire parcels of privately owned land, then redistribute them for redevelopment in accordance with its plan, retaining up to 40 percent of the land for streets and parks if need be. Coupled with the zoning act, this allowed the city to control the arrangement of residential, commercial, and industrial land uses while encouraging a rational plan for new development.

A further effort to control and direct development was the Increment Tax Act of 1903, also initially passed for Frankfurt. In Germany, as in the United States, rapidly rising land costs in growing urban areas prevented construction of inexpensive housing for industrial workers. To curb land speculation and the attendant price increases, the city was authorized to levy a tax on the gain with every transfer of ownership. So effective was the technique that other German municipalities quickly followed suit.

In his presentation before the Senate Committee on the District of Columbia in 1909, Benjamin Marsh described German land regulations and discussed the potential they might have for those U.S. cities that shared Frankfurt’s problems. Marsh’s printed statement even included translated portions of the text of the Prussian acts. Frederick Law Olmsted Jr. had told those at the NCCP meeting much the same. Although some among both groups—senators and planning conference attendees—expressed reservations about the broad scope of the German laws and questioned the constitutionality of similar legislation for U.S. cities, others were favorably impressed. Here was a way to deal with deteriorated and overcrowded living conditions.

The concept of restricting land use was not without precedent in
the United States. Colonial Williamsburg specified the height of houses on the main street and how far back from the roadway they had to be. California cities in the 1880s limited the location of commercial laundries, citing health and safety concerns, though San Francisco's ordinance indicated the real reason was to exclude the Chinese from residential areas. Boston led American cities in restricting building height in 1898 and 1904. By the 1920s land developers and realtors continued to restrict land use through deed covenants in newly developed residential subdivisions as they had for several years, but they believed that citywide zoning would provide greater uniformity than individual deed restrictions. These events determined how zoning developed in the United States.

The legal profession was well represented in early planning and zoning activities, and the efforts of attorneys Edward Bassett and Alfred Bettman were largely responsible for American zoning law. A member of the American City Planning Institute, Bassett had served on New York's Public Service Commission and he chaired the New York City Commission on Building Districts and Restrictions (formed in 1913) that prepared that first comprehensive zoning ordinance. Later Bassett spread the idea of zoning by speaking to chambers of commerce and other civic groups throughout the United States, serving as legal counsel for the drafting of zoning ordinances in many towns and arguing test cases on the constitutionality of zoning.

Bassett's efforts were complemented by those of Cincinnati lawyer Alfred Bettman. Though his early practice was largely in criminal law, Bettman is better known to planners for the amicus curiae brief he prepared in support of zoning when the U.S. Supreme Court heard Village of Euclid v. Ambler Realty Co., the case that legitimated land use control by comprehensive zoning.

Although state courts had examined zoning, Euclid provided the first opportunity for the United States Supreme Court to decide on its legitimacy. The small city of Euclid, near Cleveland, Ohio, had in 1922 adopted a zoning ordinance dividing all land in the city into six use districts, three height districts, and four area districts. The first use classification, U-1, permitted only single-family homes. With each successive classification, U-2–U-6, additional uses were permitted from duplexes to apartments, then on to commercial and industrial activities. The city's building inspector was to
enforce the ordinance under rules established by the Board of Appeals. Ambler Realty, which owned an undeveloped parcel in Euclid whose development the ordinance limited, challenged the zoning ordinance in its entirety under both the equal protection and due process clauses of the Fourteenth Amendment.

Writing for the majority in 1926, Justice Sutherland noted that building regulations that would once have been unreasonable or oppressive were now viewed as acceptable since they promised to relieve some of the problems caused by urban development and population growth. Moreover, courts had upheld legislation limiting the location of industries for reasons of public health and safety. Adding that the question at issue in *Euclid v. Ambler* involved setting aside some land in the city solely for residential uses, Sutherland referred to many reports that indicated the public benefits of separating industrial, commercial, and residential uses. Allowing apartments and other large buildings to overshadow homes would limit access to light and air, "depriving children of the privilege of quiet and open spaces for play." Although he noted that specific provisions of this or other similar ordinances might unfairly impose on a landowner, at issue here was the ordinance as a whole, and the Court believed it to be reasonable and a valid exercise of the police power to protect the public health, safety, morals, and welfare.\textsuperscript{51} Bettman's brief in *Euclid* is credited with swaying the Court to support zoning.\textsuperscript{32}

Active in the NCCP and other planning organizations, Bettman viewed land use zoning as the most direct means to guide private development and fulfill the objectives of comprehensive planning. He was insistent on the integration of zoning and comprehensive planning. In 1924 Bettman was appointed to Secretary of Commerce Herbert Hoover's Advisory Committee on Zoning. As a member of that committee, Bettman was largely responsible for drafting both the Standard Zoning Enabling Act and the Standard City Planning Enabling Act, which were then published by the U.S. Department of Commerce.\textsuperscript{33}

Both acts were designed as model legislation for states to adopt that would provide their municipalities with the power to plan their development and to control land use through zoning. The Standard Zoning Enabling Act, which gave promoting the health, safety, and general welfare of the public as its purpose, called for a
city's legislature to appoint a zoning commission. The zoning commission would study the city, hold public hearings, and prepare a report indicating the boundaries of districts for the various classes of land use, building height, and lot area and coverage. The model legislation also called for provision of a board of adjustment or appeals to allow exceptions to the adopted ordinance where needed to prevent hardship. Adding that a city plan commission, where such existed, could serve as the zoning commission, the act stated that the zoning regulations should be "in accordance with a comprehensive plan." The Standard City Planning Enabling Act called for cities to establish planning commissions of appointed citizens and public officials to "make and adopt a master plan for the physical development" of the city to guide and coordinate its growth and development. A zoning plan was to be one element of the master plan.34

The Department of Commerce's publication of these two model acts greatly encouraged the spread of zoning as many states passed legislation mirroring the model acts and their cities followed by adopting zoning ordinances. Planners and reformist lawyers were not alone in supporting zoning. Serving with them on Hoover's committee were also members of the real estate and land development professions, some of whom recognized benefits to their interests in planning and zoning and encouraged support for local public land use controls at annual meetings of the National Association of Real Estate Boards (NAREB).35 The real estate interests' support of planning and zoning no doubt facilitated many states' passage of legislation based on the model acts, although their goals were very different from those of the reformist planners and lawyers.36

Bassett's seminal work, Zoning, gives one primary reason for the push for zoning in New York—to prevent overbuilding and congestion in certain parts of the city. Zoning was also to provide for adequate light and air and give no builder advantage over another.37 A second purpose was to prevent the invasion of incompatible uses, which were thought to encourage blight and deterioration. Existing nonconforming uses might remain, but if destroyed or abandoned should not be resumed. Thus, initially zoning sought "to safeguard the future, in the expectation that time will take care of the mistakes of the past."38
American reformers, being concerned for the general social welfare, sought zoning to control population distribution and thereby improve housing and living conditions, but they also saw zoning as a means to provide for orderly growth in existing cities. Zoning would limit the fluctuation of property values and lessen land speculation. Reformers believed slum tenements existed because speculative builders built as densely and for as many people as possible. The resultant overcrowding created many urban ills. The land speculator worsened the situation as he “throttled and strangled the development of the city. He withdrew a large percentage of every city’s total land area from circulation to create scarcity, and thus appreciate values. As rents increased on remaining improved land, private dwellings gave way to apartment houses, and homes to slums.”

Since the municipal housing construction, land acquisition, and land transfer tax changes that German reformers suggested or their governments adopted were not politically acceptable in the United States, American reformers turned to land regulation by zoning to remove speculative pressure. Early zoning proponents were essentially social reformers concerned about urban deterioration and overcrowding. They sought to improve housing conditions and saw in zoning a tool for reform since it would limit the size, type, and number of structures in an area and thus lessen population density. This in turn would lessen pressure on existing housing.

Planners had even greater hopes for zoning in less developed areas. If smaller communities adopted zoning and regulated the development of land, they might prevent congestion from ever occurring. This would eliminate the need for the remedial measures necessary in the built-up, overcrowded urban areas that had first spurred the push for comprehensive zoning.

From the first National Conference on City Planning in 1909 through the 1920s, planners and other reformers reiterated their concerns and looked to planning and zoning to improve things. At the 1909 NCCP John Nolen and Daniel Burnham, both better known as physical planners than social reformers, confirmed the reform goals of zoning and explicitly recognized the zoning/planning connection. Financier Henry Morganthau, who saw zoning as a constructive element of planning to combat the evils of overcrowding, echoed their comments. Charles Merriam illus-
trated the importance of separating uses, noting that conversion of structures to multi-family occupancy followed the arrival of a factory into a residential area to make the dwellings profitable when their value as single residences had diminished because of the nearby factory. The lowered rents encouraged landlords to try to house even more occupants and discouraged maintenance and repair, leading to further deterioration and producing a blighted neighborhood.43 NCCP participants in 1921 reinforced the need for use separation. Industry was to be kept from residential areas and residences were not to be permitted in industrial areas, since any houses erected in such areas were “predestined to become slums,” as industrial areas would lack the services and amenities appropriate for residential neighborhoods.44

Some planners recognized the less benign purposes zoning might be called upon to serve. At that same conference, Robert Whitten noted that zoning had been criticized as being antisocial because it could be used to maintain the exclusiveness of upper income neighborhoods while relegating working class housing to undesirable areas. He called that an important criticism, if true, for that was not zoning’s intended purpose.

The first function of zoning should be to protect those who cannot protect themselves, and the standards applied to the areas to be devoted to industrial housing should be the highest that it is practical to make without injury to the very class of people that we are attempting to serve. Industrial housing areas should be carefully protected against invasion by trade and industry; the provisions for side, rear and front yards should be liberal; and there should be a definite limitation on the number of families that may be housed on a given area of land.45

He added that one of the problems planning and zoning faced was how to have large numbers of people together in a city “without creating inefficiency and waste on the economic side or disease and degeneracy on the human side,” how to have concentration without congestion. Although planning and zoning should deal with the physical structure of the city, the ultimate concern was the citizens and how to provide for them a better environment.46

Whitten came under fire a year later for his role in the design of Atlanta’s zoning plan, which provided for designation of residential
areas by race. He responded to his critics that racial segregation, like some socioeconomic segregation, tended to occur naturally in cities as people sought areas inhabited by others like themselves. Racial tensions and violence occurred as areas changed. Removing ambiguity by making black and white zones explicit was intended to relieve racial pressure, not encourage racial prejudice. Whitten believed that zoning could mitigate the worst results of people attempting to cluster by race and class in a time of rapid urban growth. Writing in Survey, he repeated the substance of his remarks from the 1921 NCCP meeting.\textsuperscript{47} To a post-civil rights movement generation his comments seem specious, but in the context of 1920s racial attitudes and violence they might have been only naive.\textsuperscript{48}

Three years later Alfred Bettman commented that unregulated development had led to blight, prompting the initial calls for controls and justifying zoning to promote the public health and welfare. Others felt restrictions would lessen speculative pressure on land value and prevent homes from becoming overcrowded tenements.

If there are no private restrictions or zoning regulations to prevent the coming of the more intensive housing types, land values will mount with the growth of the city, being predicated on the estimated net returns from the housing of two, four, eight, or sixteen families on a lot originally intended for a single family dwelling. With the mounting taxes resulting from these increased land values it is easy to see that a man of moderate means will have difficulty in maintaining a private home. This increase in land value is largely speculative.\textsuperscript{49}

Planners thus asked zoning to serve several different ends, but all their purposes were essentially reformist. And some recognized possible inconsistencies among their various goals. Limiting the number of families per acre or setting a minimum number of square feet per family was the easiest way to control for population density. But this type of restriction generally applied to single-family districts and neglected congestion in the least restricted zones (where many cities imposed no density controls), thus providing no solution to the overcrowding that initially spurred the push for zoning.\textsuperscript{50} Moreover, while lessening population density and reducing speculative pressure, zoning also stabilized land value and essentially protected private property in the guise of regulating it. New York's pioneering ordinance, which seemed
more concerned with preserving existing property values than guiding future growth, made this ambiguity apparent. The framers of New York's ordinance might have stirred more opposition to it and lessened the possibility of passage had they been bolder or more explicitly reformist in their efforts, and they noted that even a poor plan was preferable to none. However, even when planners acknowledged that zoning might preserve property value, they continued to emphasize that convenience and prosperity were secondary results; zoning's primary purpose remained promotion of the community's health, safety, and welfare. Thus, in the planners' view, zoning and planning were to serve the public welfare, improving the quality of urban life by lessening population congestion and its ill effects and preventing its future occurrence. Land use regulations would prevent or "correct the misdeeds of the private market."

Zoning was very much a part of what might be viewed as the contemporary city planning profession's second movement: the City Efficient. Burnham's 1909 Plan of Chicago is generally viewed as the epitome of City Beautiful planning, and although City Beautiful-type plans continued to be drafted and implemented into the 1910s, the profession was clearly moving in other directions. As part of their efforts at professionalization, city planners had begun to emphasize the "science," rather than the "art," of city planning. Motivated by many of the same social concerns as previously, they recognized in social science research the foundation for a more scientifically substantiable approach to improving cities. City Beautiful planning had been "comprehensive" in considering the city in its entirety, but only the physical city. City Efficient planning sought to be truly comprehensive by considering a city's social and economic elements as well, and by recognizing the relationship among the social, the economic, and the physical. John Nolen noted as much, and more, in his president's address to the nineteenth National Conference on City Planning in 1927, which like the first one was held in Washington, D.C.

Nolen used the occasion to review the previous two decades' progress on American city planning. After commenting on how much cities had grown, and on the impact of both the skyscraper and the automobile, Nolen observed that earlier approaches to city planning were no longer appropriate. Moreover, planners had changed with the times. He appended his remarks with lists
naming the cities that had prepared comprehensive plans (176 in number), adopted zoning ordinances (525), and created official city planning commissions (390). He also named the planned new towns or suburbs that had been built (35) and the colleges offering education in city planning (29). “The record is not spectacular,” he concluded, “but . . . it is an honorable record . . . . and the results are creditable to all concerned.”

**The Planning Theory of Zoning**

Planners of the 1920s saw zoning as the greatest advance of city planning. Municipal control over private as well as public land, limiting owners' ability to use their property in ways injurious to others, was necessary to protect the general welfare. Even the planners, however, knew that “zoning unaccompanied by comprehensive planning is at best most inadequate and at worst a positive menace to the future unity of the city.” Zoning and planning had to join together to avoid projecting past development errors into a city’s future. Planners also sought the extension of zoning and subdivision controls beyond municipal corporate limits to prevent “irreparable” damage should surrounding areas develop prior to annexation.

Zoning and planning were tied together in the Standard Zoning Enabling Act, which required that zoning be “in accordance with a comprehensive plan.” The planners and reformers expected a city to adopt a formal plan stating its goals for land use and development, then enact a zoning ordinance to implement that plan. However, in many cases the establishment of a planning commission and adoption of a plan followed zoning rather than preceding it—or never occurred at all. As Nolen noted in 1927, there were one-third more zoning ordinances than planning commissions, and almost three times as many zoning ordinances as comprehensive plans. And courts did not invalidate zoning ordinances solely because there was no comprehensive plan. The zoning of an entire community implied a plan, and since the plan itself had no force of law, its absence was not a hindrance.

However, the planners who were zoning’s earliest supporters saw comprehensive planning as the most important goal. Zoning was to be only a tool to direct private development so it would fulfill
a larger plan for the community's betterment. Thus had Bettman insisted on connecting zoning and planning in the Standard City Planning Enabling Act. Comprehensive planning would control population density by providing for a variety of housing types and income levels, noted Robert Whitten at the International City and Regional Planning Conference in 1925. A year later he advised an NCCP audience that cities needed to prepare broad general plans for their unbuilt areas, determining the best locations for industrial and commercial activities, the routes of major thoroughfares, and the standards and sites of different types of residential areas so as to foster community growth.

Writing in City Planning, Alfred Bettman agreed. Zoning had to be "an organic part of the whole city plan" to be supported as a reasonable and not arbitrary use of power. Zoning could be justified not to protect existing areas but to provide for future growth and development, as the city planned for a balance of uses appropriate to its needs. If the city made street widths and service provisions appropriate to the planned uses, the intrusion of inharmonious uses would not occur since heavy industries would not find desirable sites in residential zones and vice versa.

As part of a comprehensive planning process, zoning would provide the right amount of land in the right places for various uses, and prevent the blight and deterioration resulting from unplanned successive changes of residence to other uses on a one-by-one basis: "Sweat shops and small factories established in abandoned homes prevent in many cases the sound business development which might have followed the residence period. The blighted areas, harboring unsanitary crowded living conditions and all sorts of miscellaneous manufacturing, become forsaken spots." And the planning had to be comprehensive "since if the rights of one individual are to be limited, this limitation must be imposed for the general community benefit." At the 1928 NCCP, planner Harland Bartholomew reinforced the connection between zoning and planning, stating that without a plan, zoning could be neither comprehensive nor effective. "If not so undertaken, the zoning ordinance becomes largely an instrument of expediency, subject to constant and often whimsical change."

Though planners and the model enabling legislation joined planning and zoning, almost from the beginning the courts allowed them to separate, or allowed one to substitute for the other.
Some interpreted the “in accordance” provision as meaning only that a zoning ordinance had to be “comprehensive—that is to say, uniform and broad in scope and coverage.” Comprehensiveness involved the ordinance’s scope as well as the dimensions of space and time (i.e., it took effect for all of the city at the same time). But early court decisions upheld ordinances that covered less than the entire city, although such zoning was not really comprehensive, feeling that it was important for rapidly growing industrial cities to be able to control at least some of their land while they completed the necessary studies to prepare a zoning plan for the entire city. Also, courts reasoned that if cities could interfere with property rights by zoning the entire city, they could certainly interfere to a lesser degree by zoning only part of it. This piecemeal approach to “comprehensive” zoning could produce a patchwork ordinance, lacking unity or internal consistency.

Courts also allowed interim ordinances, quickly passed without an accompanying map and to preserve the status quo, though they, too, were not comprehensive. Early decisions recognized that cities could not create carefully planned, comprehensive zoning regulations overnight; and until such time as a city could complete all the preparations necessary for a fully comprehensive ordinance, it needed to prevent such misuses of land as might occur in the meantime. Courts had to guard against the stopgap interim ordinance, directed at individual uses rather than as a forerunner of a comprehensive code, but lack of comprehensiveness in time did not in itself invalidate the ordinance. Comprehensiveness of scope referred to a zoning ordinance controlling all three factors of land utilization: area, height, and use. However, this aspect of comprehensiveness was rarely litigated.

Spot zoning, where a single parcel was zoned for a different use than the surrounding area, was another matter altogether in the relationship of planning and zoning. Courts upheld such action if they saw it as a planned readjustment to altered circumstances; courts invalidated it as spot zoning if they felt the city had acted unreasonably and arbitrarily. How the court interpreted the action hinged on the action’s conformity with some sort of plan, with the court asking if the action “may be defended as logically related to something broader than and beyond itself.” But the “plan” could be many different things. Sometimes it was the zoning ordinance
itself, if that ordinance was comprehensive in time, area, and scope and internally consistent. Other times it was the community's general "policy" regarding land use and development, even if such a policy had not been stated in advance and in written form. Courts did not require that there be an actual physical document called a "Master Plan" or "Comprehensive Plan," adopted by ordinance, against which zoning actions could be measured. Some interpreted the concept of the plan so loosely as to mean only the general welfare of the community, and upheld zoning actions that benefited the city as a whole rather than an individual or group.76

The courts' unclear guidance resulted in part from the model legislation enabling planning and zoning. Though Bettman insisted that zoning be part of the comprehensive planning process, the legislation he drafted permitted a piecemeal adoption of the various plan elements. Consequently, zoning could be adopted as the first part of a comprehensive plan rather than subsequent to it.77 Thus the "in accordance" provision was framed in such a way that it "allowed courts to assume that the zoning process alone could provide a rational and binding framework for local land use controls. Most courts took a restricted view of the statutory requirement and allowed a comprehensive and rationally developed zoning ordinance to substitute for an independently adopted comprehensive plan."78

So zoning and planning were disjoined, and the means became the end. Although city officials and planners continued to insist at their conferences and in their writings that zoning was part of the plan, in application they allowed the two to become separate.79 Other interests took advantage of the separation.

Zoning and Property Value

Only the planners saw controlling and directing urban growth as zoning's primary use. Others saw in zoning a way to protect property values or prevent unpleasant intrusions into their neighborhoods. The planners' secondary by-product was the primary focus of their allies in the push for zoning's acceptance, as the real estate interests came to realize the negative impacts of congestion and inharmonious land uses on property values that zoning could mitigate.80
For the most part, local merchants, real estate boards, and utilities supported zoning efforts, though individuals or small groups—such as billboard interests or apartment builders—opposed specific aspects of zoning codes for their own short-term reasons. Real estate interests discovered that once in place, zoning affected property values positively, stabilizing them or sometimes increasing them. This gained financial institutions' support for zoning, as stability and maintenance of property values made land attractive for investment and not just for speculation.

As the business community had “discovered that indiscriminate land use affected their pocketbooks,” real estate and financial interests were involved in zoning from its earliest days in the United States. New York’s Fifth Avenue merchants, seeing their exclusive area threatened by expansion of the garment district, allied with the reformers to encourage the passage of the zoning ordinance. Zoning was much more attractive than the reformers' other ideas, for it could increase the profitability of land. New York's zoning ordinance consequently had only two general use restrictions. It prohibited business or industry in residential districts, and manufacturing, public stables, or garages in business districts.

New York’s experience was atypical, however. More interested in zoning than downtown business concerns were the real estate interests, who saw zoning’s potential to control residential expansion on the urban fringe. Economic growth in the 1920s spurred a housing boom and a parallel interest in planning and zoning. Real estate interests realized zoning could control the ruinous competition of speculation. Regulations could guarantee their investment. The realtors and land developers initially sought zoning to protect property values in upper income areas while limiting controls elsewhere so land speculation in those areas could continue. Realtors who at one time opposed zoning soon saw it as the “ultimate promotional device, a form of government-subsidized free advertising.” Property value hinged on zoning classification.

Zoning served the realtors' and land developers' purposes the way deed restrictions did, by helping determine an area's character. Thus in Berkeley, San Francisco, and elsewhere, developers of new areas were among zoning’s strongest supporters. At the 1915
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NCCP one realtor had challenged the planners to convince the real estate industry that planning made sense, that it would save money or make an investment more sound. The planners met the challenge. A year later Kansas City land developer Jesse Clyde Nichols called for zoning to prevent haphazard land development. Noting that "the value of the residence property that is offered in every city, is dependent upon what is across the street or in the next block," Nichols stated that the private developer needed the assistance of municipal controls. The Arkansas Association of Real Estate Boards concluded, "If no higher motive existed, men in the business of real estate are the only group whose purely selfish interests demand the study of city planning and land planning. Realtors' experience has convinced them that sound planning is good business and that poor types of subdivision result in social and economic losses." Hence realtors were instrumental in the passage of many cities' zoning ordinances.

The spread of zoning was also related to increased suburbanization. Small cities and suburbs recognized zoning's exclusionary potential, though they framed its adoption in terms of promoting the general welfare. Residents' property value interests were as strong as realtors' and land developers'. Expecting to recoup their expenses and make a profit when they sold their homes, residents reacted strongly to any zoning action that might lower their property values. A consumer of housing, the homeowner was also a producer in the "used" housing market, seeking stability and price appreciation for his neighborhood so he could move up to a more exclusive area with each change of residence.

However, economic interests vied with the social concerns of suburban residents. Zoning not only created a hierarchy of less-to-more valued land uses; it also created a hierarchy of land users and stated implicitly that categories of people should not be mixed because they would not get along. Zoning advocate and lawyer Edward Bassett recognized this potential early and doubted its legitimacy. Observing that upper class suburbs tried to use zoning like restrictive covenants, sometimes even prohibiting schools and churches from the highest residential areas to maintain exclusivity, Bassett questioned that practice as a reasonable use of the police power. If the excluded uses were harmful to health and safety where lots were largest and density lowest, he reasoned they
would be even more harmful in areas where they were not prohibited. Bassett's reasoning did not prevail, however.

As zoning spread, the reform and planning motivations decreased in importance. Real estate interests were instrumental in its adoption, which the Standard City Planning Enabling Act and the Standard Zoning Enabling Act facilitated in the 1920s. Although reformist zoning lawyer Alfred Bettman partially drafted both acts, business-oriented individuals in the U.S. Department of Commerce promulgated them.

Both planner-reformers and real estate interests recognized the apparent dichotomy of their purposes. In 1927 the ten-year-old American City Planning Institute and the National Association of Real Estate Boards issued a joint statement that formed the basis of the Department of Commerce's Standard City Planning Enabling Act. Discussions producing that statement reflected the inherent disagreement between the two groups. Realtors were concerned that planning not be so "idealistic" as to "destroy real property value," while planners cared only that it not destroy "all real property value" (emphasis added). At the 1927 NCCP planner Thomas Adams commented that the joint statement appeared to say that land should be developed to benefit first property values and then the community. Adams felt that the two should be reversed, as "land values should not be placed in front of the benefit of the community." Others echoed his comments, stating that the interests of home builders were less important than those of home buyers and occupants.

Adams had previously established three main purposes for city planning: to stabilize economic conditions and control land use, to provide appropriate facilities for industrial development, and to assure wholesome housing conditions and promote homeownership. Zoning could be used to attain all three ends, but it was only one element of the comprehensive planning process. However, as business and real estate interests gained ascendancy in the zoning movement, zoning was divorced from comprehensive planning and, in many cases, substituted for it. Clarence Stein, chairman of the American Institute of Architects' Committee on Community Planning, noted that the prevention of blight and of deterioration of housing had been the initial goal of zoning as a means to serve the common welfare. However, "zoning immediately passed beyond
the matter of conserving that which would accrue to the advantage of the common welfare and proceeded to utilize the principle and the power to conserve, stabilize and enhance property values. And it is upon the efficacy of zoning as a measure which will stabilize or enhance property values that its popularity has come to hang.”

Early zoning ordinances thus seemed as concerned with preventing nuisances and preserving property values as with guiding future growth through zoning. However, had they been bolder, the planners who framed those ordinances might have stirred so much opposition as to prevent their passage. Certainly there was initial opposition from those whose income came from land development. Then the realtors and land developers came to accept land use controls because it was clear that they could profit by stabilized values, and they joined the city planners in urging the adoption of zoning.

The planners' motives remained broader and less profit oriented than the land developers', however. Given the concerns they expressed and their motivations, planners essentially developed four broad goals for zoning. How effectively zoning met those goals would determine its impact on urban social and spatial structure. First, to be a part of the planning process, zoning had to be in accordance with a comprehensive plan—even if that plan were implied rather than explicit. Second, to meet a community's needs zoning had to provide appropriate amounts of industrial and commercial land in appropriate places and housing for all income levels. Third, to preserve residential areas, even for the poor, zoning was to prevent potentially harmful uses from locating near housing. Finally, to address the planners' underlying concerns for social equity, zoning actions were to serve all income groups equally. That meant protecting the neighborhoods of the poor as well as the rich, and perhaps providing for some low or moderate income multifamily housing in less dense outlying areas so that the poor were not confined to overcrowded, deteriorated slum tenements in the city while the rich lived in big new homes in the spacious suburbs.

Zoning in Columbus

The foregoing discussion presented reformist planners, working for a broadly defined public interest, variously allied with or
arrayed against realtors and land developers, working for their own interests. The Columbus, Ohio, experience with zoning indicates that the lines were not so neatly drawn or the process so clear. It also reveals the gap between the planning theory and the practice of zoning.

What was the result for the city? Did zoning shape land use? By and large it did not, or did so only indirectly. Zoning protected single-family neighborhoods developed after 1920, but private development restrictions had already determined their character. When and if deed restrictions expired, the zoning code continued to provide protection. At the same time, older residential areas built before the widespread adoption of restrictive covenants had only the zoning code to protect them, and such protection was minimal. Responding to the requests of property owners, council and the zoning board allowed land use in these older areas to become increasingly dense and varied, thus permitting deterioration of residential areas primarily inhabited by renters.105

The First Columbus Zoning Code

In 1921 the Columbus City Council, as permitted by the 1914 charter, established a planning commission whose purpose was to make plans and maps for the systematic planning and development of the city. The Plan of 1908 had made no such provisions, and the original plan commission, being composed of consultants, ceased to exist once the Plan of 1908 was completed. Council also gave the new planning commission permission to frame a zoning ordinance “in the interest of the public health, safety, convenience, comfort, prosperity or general welfare.”106 This was the appropriate procedure under both the model Standard Zoning Enabling Act and the Standard City Planning Enabling Act, which were then in preparation.

As was common at that time, the municipal government structure of Columbus had no planning department or division staffed by city employees. It was generally believed that city planning commissions (and, later, boards of zoning appeals) should be composed of citizens. This would both allow for input or representation of the general public and insulate the planning and zoning processes from potentially corrupt local officials.107
The commission consulted with noted city planner and zoning expert Robert Whitten to assist in its task. After two years' work, the planning commission presented a zoning ordinance to City Council, which passed it August 6, 1923, with little public reaction. The ordinance was comprehensive in design and the city did not adopt a master plan before passing it. In this respect the Columbus City Council acted as most of its contemporaries and successors elsewhere did. (In 1927 John Nolen had noted three times as many zoning ordinances as comprehensive plans; by 1941 there were ten times as many zoning ordinances as comprehensive plans for American cities.) The newly adopted Columbus zoning code put all land in the city into one of five use districts. It also divided all land into four height districts and five lot-area districts. Thus for any piece of property, regulations specified the maximum height of all buildings, the lot size or density of development, and the permissible uses.

The code established a hierarchy of five uses. They were dwelling house (one- or two-family residences), apartment house (for three or more families), commercial, first industrial (less objectionable uses), and second industrial (heavy, more unpleasant industries). Some uses—such as petroleum refineries, cement manufacturers, or slaughterhouses—were prohibited altogether, and others (including amusement parks and stone quarries) were allowed only by special permit of the Board of Zoning Adjustment (BZA).

According to accepted planning theory and the concern of zoning proponents for protecting residential areas from harmful intrusions, the single-family home was the highest property use. It was followed in descending order by multifamily housing, commercial, and finally industrial uses. Those who owned and occupied single-family homes shared this perspective. The property owner as investor, however, had a very different perspective. As this individual sought to maximize the amount of income his or her property could generate, the investor's concept of "highest use" was that with the greatest earning potential. Hence single-family homes would be at the bottom of the list, with apartment and then commercial uses above them. Planning theory and real estate practice thus both created hierarchies of land uses but reversed the order of uses on each other's list.
Under the Columbus zoning code, higher uses were permitted in lower use zones; thus single-family homes could be built in apartment house districts and any form of housing could exist in commercial or industrial zones to the limits of the height and area classifications. By codifying a hierarchy of land uses, the ordinance protected residential areas from commercial or industrial intrusions while not imposing on the property rights of those who might wish to build some type of housing (for personal occupancy or rent to others) in commercial or industrial areas.

The code permitted some occupations, such as doctors, dentists, or other "professional persons," in residential areas if carried out within the professional's own home. It also allowed restaurants and newsstands in apartment zones. The code allowed nonconforming uses (i.e., those uses in existence in August 1923 that would not be permitted by code for their location) to continue but not to expand; if discontinued, they could not be resumed.

To provide for adequate light and air, the code established four height districts. Each district specified a maximum height for all structures within its borders. The maximums were (1) 50 feet, (2) 75 feet, (3) 100 feet, and (4) 175 feet, with the lowest being in residential areas and the highest for some industrial and downtown commercial sites. Ornamental parapets and spires exceeding the height limit were permitted in each district, as were buildings higher than the maximum if those buildings were stepped back from the building line. This last provision, common in many cities, produced the tiered wedding cake form of many office buildings built in the 1920s and 1930s. In the 50- and 75-foot districts, the sides of a building had to be set back one foot from the required yard or lot lines for every two feet of additional height. In 100- and 175-foot districts, the set back was one foot for three.

The code established five area districts to control density of construction and to prevent overcrowding. These established minimums of (A) 4,800 square feet of lot per family, (B) 2,400 square feet of lot per family, (C) 1,200 square feet of lot per family, (D) 600 square feet of lot per family, and (E) unrestricted. The unrestricted designation was generally applied to those parts of commercial or industrial districts where residential uses did not exist or were unlikely to be built. Theoretically, however, one could erect an apartment building at much greater density than 600 square
feet of lot per family if it was in an unrestricted commercial or industrial zone. Under those circumstances, the only limitation on population density would be the building height for that particular parcel.

The effect of the code was to determine the use, lot size, and building height for every piece of land in the city. Thus, in the A-1 dwelling house districts one could build only single-family homes less than fifty feet tall on 4,800-square-foot lots. In a C-3 apartment zone, one could build a structure one hundred feet tall on any parcel providing at least 1,200 square feet of lot for each apartment unit. The code permitted residential construction on lots smaller than the minimums for their district if the lot had been owned or the plat recorded before council passed the zoning ordinance. The ordinance determined the number of families on a given lot by the number of housekeeping units (defined as rooms with cooking facilities). In dwelling house districts with B area restrictions, one could also construct four-family row houses (four attached dwellings built as a single structure). In addition, the zoning code established building setback lines and side and rear lot lines.

The code contained a measure of flexibility as well. City Council could amend any provision of the ordinance. Under rules established by the Board of Zoning Adjustment, the building inspector was to enforce the code by granting building permits only for those structures that met its use, height, and lot-area specifications. (This was the same procedure outlined in the soon-to-be-legitimated Euclid, Ohio, ordinance.) Besides establishing rules, the five-member BZA could, at the request of a property owner, “vary the application of such provisions [of the ordinance] in harmony with the public interest” in cases of unnecessary hardship. The BZA could also allow certain other specified use exceptions if it determined such exceptions would serve the public interest and not injure neighboring property.

During the next thirty years council amended the ordinance to increase clarity, remove ambiguity, or deal with unforeseen circumstances. Council made the definitions of terms used in the ordinance increasingly explicit and repeatedly expanded the lists of uses permitted in the commercial and industrial categories. For example, it made clear that an establishment that killed and dressed poultry for wholesale was an industrial use while one that
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killed and dressed poultry for retail was a commercial use. Similarly, a large laundry (employing more than three persons) was an industrial use while a small laundry (with three or fewer employees) was a commercial use.

Amendments also clarified administrative procedures for council and the BZA to follow. Property owners requesting a rezoning (a change in use, height, or area classification affecting their property) first had to submit their request to the city's Planning Commission, which was required to make a recommendation to council for approval or denial. The commission's recommendation was only advisory, however; a simple majority vote of council was sufficient to grant the change regardless of the commission's recommendation. Council had created the Planning Commission to draw up the original zoning plan for the city. The commission's only purpose after adoption was to make advisory recommendations on rezonings. The zoning board (or BZA), on the other hand, was created by the zoning ordinance itself to hear and decide requests for adjustment or variance from code provisions. The ordinance originally specified that a four-to-one vote was required for the zoning board to grant a variance. When it became clear that the board could do nothing if two members were absent, council amended the ordinance to allow granting of a variance by unanimous vote of three BZA members if only three were present.

Although it became increasingly clear and specific, the zoning code's basic structure in terms of use, height, and area classification remained unchanged until 1948, when council divided the single broad commercial class into four distinct categories. The first category, A business uses, included banks, office buildings, and private schools. B business uses were such things as markets, drugstores, and delicatessens. C uses were less pleasant neighborhood commercial uses (e.g., gas stations, ice houses) or those generating congestion (e.g., theaters). D business uses were the most intense or least pleasant and included poultry dressing and sales, nightclubs, poolrooms, car lots, and stables. Like the use categories of the code itself, the business subcategories were hierarchical, with A uses permitted in all business districts and D uses allowed only in D districts. Also, the code still permitted residential and apartment structures in all business districts.

Little more than a year later, council redefined and categorized
the residential districts. Three categories replaced the original dwelling house class. A-1-A permitted only single-family residences, with at least 1,500 square feet of floor area, on lots no smaller than 4,800 square feet. In A-1-B districts, where the same floor and lot sizes applied, land could also be used for parks, churches, and truck gardens. The B-1 district permitted several different residential forms, including doubles, duplexes, double-duplexes, and four-family row houses, as long as the site provided 2,400 square feet of lot per family and buildings were no taller than fifty feet. Council made no other substantive changes to the zoning ordinance until the entire code was rewritten in the mid-1950s. This slightly expanded code (outlined in Table 3.1) thus governed zoning activity in Columbus for over thirty years.

Land Use under the Code: Years of Adjustment, 1923–1930

The first years under the zoning ordinance were a time for both property owners and city officials to adjust to public land use controls. When property owners discovered that their lots were too small to construct new buildings or additions within the specified setback or area restrictions, they turned to the BZA for relief. Unwilling to impose undue hardship, the BZA generally granted property owners' variance requests. Meanwhile, use variances or rezonings by City Council allowed property owners to use their land more intensively than otherwise permitted by code, particularly in older parts of the city.

Although the city had not adopted a comprehensive plan prior to its zoning ordinance, the amount and location of land allotted to each use were fairly appropriate. The use categories applied to the city's land in 1923 matched actual land uses to a considerable extent. The downtown core was zoned commercial, as were most major arterials extending out from the central business district. Thus the city determined that when outlying residential areas developed to the point of needing commercial services, those services would occur on the major streets where traffic was already heavier, rather than on interior lots, which would bring heavy commercial traffic into residential areas. The exception to commercial arterials was East Broad Street, whose frontage was zoned residential. Along East Broad some of the city's wealthiest
families had once built impressive homes; many still lived there in the early 1920s.

A C-shaped industrial zone of irregular width, broken by the East Broad Street residential strip, almost surrounded the central commercial core. Industrial areas had grown up on either side of the confluence of the Scioto and Olentangy rivers just west of downtown and along the Scioto south of the city center. A third industrial area had developed along the major rail line northeast of downtown. These early industrial areas had gradually expanded and the city's zoning code joined them into a single band, broken only by the commercial frontage of the major streets and, of course, the Broad Street mansions. In addition to existing and permitted industries, the industrial zone contained the state penitentiary and Fort Hayes army base, uses that might have detracted from nearby neighborhoods.

Except for a few isolated commercial or industrial spots, the rest of the city was zoned for some type of housing. Most of the outlying neighborhoods fell into the dwelling house district, with the newer ones in the A area zone, which permitted only single-family homes. Slightly older neighborhoods, somewhat closer to the city center, were B area dwelling house districts which permitted doubles and row houses (if the lots were large enough). The oldest residential areas, near or adjacent to the industrial or commercial districts, were zoned for apartments.

The apartment zone was the only one whose designation did not

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**Table 3.1**

<table>
<thead>
<tr>
<th>Land use classifications of the Columbus zoning code, 1925–1954</th>
</tr>
</thead>
<tbody>
<tr>
<td>1923</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>Dwelling house</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Apartment</td>
</tr>
<tr>
<td>Commercial</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>First industrial</td>
</tr>
<tr>
<td>Second industrial</td>
</tr>
</tbody>
</table>
accurately reflect existing use. In addition to some apartment buildings, single-family homes, duplexes, and row houses covered the apartment districts, along with scattered neighborhood commercial and small-scale industrial uses. Although the apartments were a distinct minority use, they (along with the commercial and industrial structures) would have been nonconforming uses had these areas been given the dwelling house designation. Since singles and doubles were permitted in apartment zones, the city chose the designation that produced the fewest nonconforming uses for these mixed-use areas. The apartment districts, most of which were between one and one-half and three miles from the city center, were the scene of most zoning change requests during the next thirty years.\textsuperscript{116}

From the adoption of the zoning ordinance to 1930, City Council and the Board of Zoning Adjustment issued 324 decisions on requests to alter some provision of the code.\textsuperscript{117} Approvals outnumbered denials by 63.3 to 36.7 percent. BZA actions outnumbered council actions by an even greater margin (73.1 to 26.9 percent), indicating perhaps less dissatisfaction with use designation than with other code provisions. Table 3.2 shows the percentage each body granted.

Although property owners all over the city made requests, the requests were not evenly distributed.\textsuperscript{118} Almost half the requests on the north side occurred within three miles of the city center, but others extended to as far away as seven miles, farther than in any other part of town. On the east and south sides almost all requests were within the three-mile zone, while they were much more dispersed on the northeast and west sides (Figure 3.1).

This was a period of adjustment to the imposition of public land use controls. City officials did not want to create hardships for property owners who had platted or purchased their lots or planned their buildings prior to the code's adoption. Consequently, the zoning board was fairly lenient in granting variances from the setback and lot size requirements. In older parts of the city, lots were too small and houses too large to allow residents to build garages within the designated setbacks, so the BZA often granted variances. The BZA also granted lot area variances, permitting greater density building than allowed by code. Persons wishing to alter the use of their property to something the code did not allow
Table 3.2

Requests granted by council and the BZA, 1923–1955

<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Requests decided by council</td>
<td>87</td>
<td>23</td>
<td>89</td>
<td>153</td>
</tr>
<tr>
<td>Council approval rate</td>
<td>71.3%</td>
<td>69.6%</td>
<td>62.9%</td>
<td>67.3%</td>
</tr>
<tr>
<td>Requests decided by BZA</td>
<td>257</td>
<td>60</td>
<td>16</td>
<td>44</td>
</tr>
<tr>
<td>BZA approval rate</td>
<td>60.3%</td>
<td>51.7%</td>
<td>50.0%</td>
<td>75.0%</td>
</tr>
<tr>
<td>Total percentage granted</td>
<td>65.3%</td>
<td>56.6%</td>
<td>60.9%</td>
<td>69.0%</td>
</tr>
<tr>
<td>Total number of decisions</td>
<td>324</td>
<td>83</td>
<td>105</td>
<td>197</td>
</tr>
</tbody>
</table>

Note: Both approval rates and percentage granted are calculated as a proportion of known decisions made, not total changes requested.

met with less success, for only 37.5 percent of requests for a nonconforming use were granted. Existing nonconforming uses were generally permitted to expand, however. Table 3.3 illustrates the types of variances granted.

The use changes granted by either council rezoning or BZA use variance increased the intensity of land use. Council and the zoning board permitted sixty-four changes from apartment or row house to commercial use and eleven from row house to apartment. Only seven changes were granted, however, from single-family use to commercial or a denser residential use. Most changes to commercial use occurred in older residential areas or apartment zones near the industrial or commercial districts (Table 3.4). Thus close-in, mixed-use parts of the city became denser. Spacious, owner-occupied, middle and upper income, single-family neighborhoods retained their residential character, while rental housing areas experienced incursions of nonresidential uses during the first years of the code.

The Depression Drop: 1931–1935

Although requests for some change in public land use controls dropped sharply after the initial period of adjustment, the decisions allowed further change in older residential areas. Zoning board actions still outnumbered those of council, as did affirmative decisions (Table 3.2). As before, most requests involved land fairly close to the city center, although on the west side several involved parcels just beyond the state hospital (Figure 3.2). The
BZA was still reluctant to impose a hardship on property owners and thus generally granted variances for setback and lot size. The board also permitted almost as many nonconforming uses as it denied (Table 3.3).

Perhaps the most striking feature about zoning decisions involving land use during this period is that only one type of use change
Table 3.3
Percentage of each type variance granted, 1923–1955

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>Setback for main building</td>
<td>70.0%</td>
<td>50.0%</td>
<td>66.7%</td>
<td>100.0%</td>
</tr>
<tr>
<td>1925–50</td>
<td>50</td>
<td>4</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Setback for addition</td>
<td>58.3%</td>
<td>50.0%</td>
<td>0</td>
<td>100.0%</td>
</tr>
<tr>
<td>1951–55</td>
<td>12</td>
<td>2</td>
<td>0</td>
<td>9</td>
</tr>
<tr>
<td>Setback for accessory</td>
<td>76.5%</td>
<td>100.0%</td>
<td>66.7%</td>
<td>0.0%</td>
</tr>
<tr>
<td>1956–45</td>
<td>51</td>
<td>6</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Height</td>
<td>77.8%</td>
<td>0</td>
<td>50.0%</td>
<td>100.0%</td>
</tr>
<tr>
<td>1946–55</td>
<td>9</td>
<td>2</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Lot size or area</td>
<td>74.4%</td>
<td>80.0%</td>
<td>92.3%</td>
<td>87.5%</td>
</tr>
<tr>
<td>Floor area: main building</td>
<td>50.0%</td>
<td>100.0%</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>1956–45</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Floor area: accessory building</td>
<td>66.7%</td>
<td>100.0%</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Begin nonconforming use</td>
<td>37.5%</td>
<td>45.0%</td>
<td>42.9%</td>
<td>76.5%</td>
</tr>
<tr>
<td>1931–55</td>
<td>80</td>
<td>40</td>
<td>7</td>
<td>17</td>
</tr>
<tr>
<td>Expand nonconforming use</td>
<td>76.5%</td>
<td>0.0%</td>
<td>50.0%</td>
<td>53.3%</td>
</tr>
<tr>
<td>1936–45</td>
<td>17</td>
<td>1</td>
<td>2</td>
<td>3</td>
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<tr>
<td>Alter nonconforming use</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Special permit</td>
<td>62.5%</td>
<td>100.0%</td>
<td>0</td>
<td>100.0%</td>
</tr>
<tr>
<td>1956–45</td>
<td>16</td>
<td>4</td>
<td>1</td>
<td>4</td>
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<tr>
<td>Sign provisions</td>
<td>0</td>
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<td>0</td>
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<tr>
<td>Parking requirements</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Total requests</td>
<td>304</td>
<td>64</td>
<td>46</td>
<td>96</td>
</tr>
</tbody>
</table>

*(n) is the total of each type of action requested; the percentage is the proportion of each type of request granted.

Table 3.4
Changes to commercial use by distance from the city center, 1923–1955

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
<td>% (n)</td>
</tr>
<tr>
<td>Less than 5 miles</td>
<td>62.2%</td>
<td>81.8%</td>
<td>82.6%</td>
<td>69.2%</td>
</tr>
<tr>
<td>1923–30</td>
<td>45</td>
<td>18</td>
<td>19</td>
<td>45</td>
</tr>
<tr>
<td>3 to 6 miles</td>
<td>33.8%</td>
<td>18.2%</td>
<td>17.4%</td>
<td>50.8%</td>
</tr>
<tr>
<td>More than 6 miles</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
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was granted—housing to commercial. Council or the BZA permitted twenty-two parcels zoned for row houses or apartments to change to commercial use. Most of those changes, like most of the nonconforming uses permitted by the BZA, were within three miles of the city center (Table 3.4). This further increased the variety and intensity of land use in an already varied area and detracted from the residential character of what had been designated a dwelling house or apartment zone.
Total Requests = 106

- Three-mile zone
- Six-mile zone

Suburbs are identified on Figure 1.1

*Figure 3.2* Percentage of requests for rezoning or variance by location, 1931–1935

*Slow Times Continue: 1936–1945*

Zoning actions through the remainder of the depression and war years continued the pattern previously set, but not without some changes. By the mid-1930s, property owners had apparently adjusted to zoning controls, for the number of requests made during
the following ten years was only slightly greater than in the preceding five (106 from 1931 to 1935, 107 from 1936 to 1945). The nature of requests changed, however, as did the body responsible for making more decisions. Council made 84.8 percent of the decisions on zoning matters, indicating that property owners were more concerned about land use than lot or area specifications. Regardless of their concerns, they generally got what they asked for, which allowed additional change in older residential areas (Table 3.2 and Figure 3.3).

Property owners had learned to live within their building lines—only three requested setback variances. Twenty-six sought to increase their lot density, however, and overwhelmingly were allowed to do so (Table 3.3). If they wanted a use not permitted by code, they more often went to council for a rezoning than to the BZA for a use variance. As in earlier years, change to commercial use was the most desired and council or the BZA granted twenty-three such changes from row house or apartment use (Table 3.4). On the west side, however, four property owners bucked the trend and council rezoned their land from commercial to one-to-four-family residential. Others sought to increase residential density and council rezoned seven parcels from row house to apartment use.

The changes that City Council and the Board of Zoning Adjustment granted increased both density and intensity of use, particularly in older areas of the city. The mixed areas became more mixed and the number of potential housing units increased. This latter occurred because of row house to apartment changes but also because lot area changes allowed property owners to build multifamily units for more households than their lots would otherwise have been permitted to hold. Thus the earlier trends continued despite the low level of zoning activity.

**The Postwar Pick-up: 1946–1955**

The ten years following the end of World War II saw an increase in zoning requests and an acceleration of existing patterns. Council again made the lion’s share of decisions (77.7 percent), and property owners generally got what they asked for (Table 3.2). The affected properties extended farther from the city center than previously and they were not evenly distributed. The number of
Total Requests = 107

- Three-mile zone
- Six-mile zone

Suburbs are identified on Figure 1.1

Figure 3.3 Percentage of requests for rezoning or variance by location, 1936–1945

requests ranged from a low of 19 on the south side to a high of 74 on the east. Reflecting its less developed state, all south side requests were within three miles of downtown, whereas north side requests extended to seven miles. Still, 60 percent of the requests on the north, east, and west sides were within the three-mile zone (Figure 3.4).
The patterns established during the previous ten years continued for both council and BZA actions. The BZA permitted variances for a few setbacks or nonconforming uses. The board also granted some special permits for uses that were allowed in various districts only with the board's specific approval. As before, how-

Figure 3.4 Percentage of requests for rezoning or variance by location, 1946–1955
ever, many more property owners were concerned about area restrictions: forty-nine, compared to eleven setback requests and twenty-two for nonconforming uses. Thus they requested and received lot size variances or rezonings of area classification to permit denser construction than the code allowed (Table 3.3).

Commercial requests outnumbered any other use change by a margin of sixteen to one. Council rezoned fifty-seven parcels from row house or apartment to commercial use and seven single-family lots to commercial use. Although the altered single-family lots were widely scattered, the newly commercial row house and apartment lots were often on the near north, east, and west sides. As before, a few property owners sought to increase residential density by rezoning from row house to apartment district and to change from commercial use. Council approved four of each request. Table 3.4 indicates the location of commercial use changes, showing that the patterns of earlier years continued. Land use in older residential areas became increasingly mixed, dense, and intense.

Protecting Columbus Property Values

For thirty-two years Columbus City Council and the Board of Zoning Adjustment changed the city’s structure as it grew, though without the benefit of a comprehensive plan. Most of the city’s growth by annexation occurred in the mid- and late 1920s. City Council promptly assigned use, height, and area classifications to the newly annexed territory. Except along the arterials, council zoned all the new land for the least dense dwelling house category, thus specifying that only single-family homes could be built there. Council zoned frontage along arterials for commercial use, with two exceptions. Some sections of High Street and Broad Street frontage on the north and east sides were given the low density, dwelling house designation of the subdivisions they bordered. This occurred mainly where preexisting deed restrictions permitted only single-family homes, which had already been built for middle or upper middle income persons. Since most land had been platted with developer-imposed deed restrictions prior to annexation to the city, the zoning code followed the land developers rather than directing their activity. Consequently, zoning designations usually matched land developers’ use restrictions.
Where council or the zoning board granted changes primarily reflected where property owners requested them. It is not surprising that most requests involved land in the older, close-in residential areas, given the patterns of residential development. In areas developed after the 1910s, property owners found their land uses and building setbacks specified by deed restrictions that applied regardless of zoning provisions. A rezoning from residential to commercial might financially benefit one with a parcel in an unrestricted subdivision or in a subdivision whose restrictions had expired, but in newer areas such parcels were few and far between. The older residential neighborhoods, however, were well within the 1920 fringe of the city and thus not subject to extensive deed restrictions. Many of these areas had been platted in the 1870s and 1880s and the few restrictions imposed had expired before zoning's adoption. Consequently, zoning changes most often affected land in or near the three-mile zone.

The incremental impact of thirty years' changes was considerable, if unintended. Despite the apartment or row house zoning designation of most residential land in older areas, singles and doubles predominated there. The changes that council and the zoning board granted resulted in these areas becoming increasingly dense and the land use increasingly varied. The lot size variances or area changes allowed property owners to build more multifamily units than the code permitted on the basis of lot dimensions. This meant either building larger structures or subdividing existing single-family homes and doubles into multifamily units. Either way, population density increased.

The commercial rezonings increased the intensity of use, along with the potential for more traffic, noise, and congestion. They thus detracted from the residential character of these older neighborhoods. Altogether, over thirty-two years, 176 parcels in residential areas were rezoned for commercial use, most within three miles of the city center. Meanwhile, many lots along commercially zoned arterials remained vacant. Property owners wishing to initiate commercial uses, then, preferred to seek rezoning for land they already owned or for lower-priced residential lots rather than buy commercially zoned parcels elsewhere. Since these 176 changes occurred over thirty years, it is unlikely that council or the BZA deliberately set out to create commercial or mixed-use areas in the older
neighborhoods. Certainly there was no adopted plan for that purpose, but the cumulative effect of their actions was to do just that.

Council and the BZA also served property interests through their actions. In newer residential areas, where middle and upper income people owned and occupied their own homes, zoning actions protected both residential character and property values. In older residential areas, where residents were more likely to be rental tenants, zoning protected only property values. Zoning increased the earning potential of income-producing properties by allowing more apartments or changes to commercial use. City Council and the Board of Zoning Adjustment did not use zoning to plan and direct growth and development for the benefit of the city as a whole during these thirty years. Rather, they reacted to the requests of individual property owners on a one-by-one basis to protect property value.

Planners, Planning, and Zoning over Time

There is no evidence that once the Columbus zoning code was in place those who administered it gave any thought to the larger purposes of zoning that early reformist planners had set for it. Unfortunately, the Columbus experience was common. During the same thirty years the amount of attention planners as a whole gave to zoning was not great. There was a spate of journal articles and conference papers dealing with zoning in the late 1920s but noticeably fewer in the 1930s and 1940s. Planners were caught up in the Great Depression and World War II and pondered the implications of those events for their profession. Zoning was sort of taken for granted; after all, the zoning battle had been fought and won years earlier.

During this time the planning profession continued to evolve, broadening its scope from cities to metropolitan areas and multi-state regions. The profession also figured in the newly established relationship between the national and local governments that grew out of efforts to deal with the Great Depression. Moreover, the same issues that had prompted zoning—housing conditions, tenement and slum districts, and the overall quality of urban life—continued to concern planners.
Even while the U.S. Department of Commerce's model acts encouraged and facilitated cities to adopt zoning, planners recognized that cities were changing, and they expanded their focus. During the 1920s the Russell Sage Foundation funded the Regional Plan for New York and Its Environs. A staff of planners prepared volumes of analysis and recommendations for the three-state metropolitan region surrounding the city of New York under the direction of Thomas Adams. The Regional Plan for New York and Its Environs was a detailed, specific, and pragmatic approach for dealing with a city whose growth seemed unstoppable.

It was, however, much too practical for the era's other major proponent of a regional vision, Lewis Mumford, about whom had gathered a loosely defined group of housing reformers and planning-oriented architects known as the Regional Planning Association of America (RPAA). Believing that urban growth was neither necessarily good nor inevitable, they preferred deconcentration of the urban population. They were also the garden city movement's strongest advocates in the United States and the moving force behind Sunnyside Gardens and Radburn. The RPAA felt that the formless sprawling of metropolitan areas destroyed a sense of community; members believed that residential areas, coordinating physical and social planning as outlined by Clarence Perry's Neighborhood Unit concept, could counteract existing trends. Community planning could both preserve the integrity of small towns and make big cities more livable. Although Mumford condemned the Regional Plan of New York as a "failure of imagination," he praised its acceptance of Perry's Neighborhood Unit. Still, he and other RPAA members urged a more active government role.

That more active government role, especially for the federal government, arrived with the New Deal. Local governments could not cope with the exigencies of the Great Depression and the federal government's response involved planners in a number of ways. They supervised the housing and planning components of the Tennessee Valley Authority, designing the new towns to be created. They also planned the "greenbelt" towns, which reflected some garden city principles and were built by the U.S.D.A.'s Resettlement Administration under Rexford Tugwell. Housing reformers, including RPAA member Catherine Bauer, helped shape
the landmark 1937 U.S. Housing Act, which authorized public construction of rental housing for low income persons. Finally, they served on the National Resources Planning Board (NRPB), created to survey the state of the nation's physical and human resources and to encourage planning that would promote their wise and efficient use. The NRPB's Urbanism Committee produced the first comprehensive study of urban America, a three-part report entitled *Our Cities: Their Role in the National Economy.*

As depression merged into war the NRPB continued its activities until its disbanding in 1943. Still, many plans and projects begun at the board's instigation provided a legacy. Meanwhile both in their own cities and at their national meetings planners recognized the need to prepare cities for the postwar world. Concerns about the quality and quantity of housing continued, for although New Deal programs and defense industry needs had produced some new dwellings, much present and anticipated need remained unmet. Overcrowded and inadequate dwellings still filled city slums. Adjacent to them were blighted areas of vacant or outmoded industrial and commercial structures, spawning interest in redeveloping central cities. The Housing Act of 1949 and its 1954 successor, which reflected some planning profession input, joined housing and revitalization efforts funded in part by the federal government.

City planning, both as a profession and as an activity, had changed considerably by the mid-1950s. So had the environment in which it functioned. At the time New York adopted the nation's first zoning ordinance, city planning was in transition from the City Beautiful to the City Efficient. Private consultants, generally trained in a design field, drafted the plans of individual cities, which were often paid for by business leaders. By the 1950s planning, though still largely physical, was less oriented toward aesthetics, planners were often public employees, cities were part of complex multijurisdictional metropolitan regions, and the federal government as well as local governments actively promoted planning.

It is not surprising, then, that planners gave zoning much less conscious attention than previously. Other aspects of the profession were actively developing and changing. Zoning, on the other hand, had developed and been legitimated in the 1920s; once in place, the zoning process was expected to function as planning theory said it
should. Zoning had become a normal part of everyday planning life, largely unexamined and unquestioned.

Nevertheless, some were uneasy. When they did discuss zoning, planners reiterated their goal of promoting the public health, safety, and welfare. And only a decade after New York's pioneering effort, some planners found zoning so affected by the commercialism of American society or by property concerns that its practice served neither the needs of the community nor of all its residents equally well. "I have always wondered," commented one, "why a smaller front, side, and rear yard is needed to promote the health, safety, and general welfare of the inhabitants of a two-family house than the inhabitants of a one-family house."

Zoning was not to be "a sanctification of the status quo"; it was to be a blueprint for future growth. Planners warned small-town officials in frequent contact with citizens and business owners not to do the politically expedient thing when zoning or responding to requests for zoning changes. Such an approach would produce inconsistency and render the zoning code useless. Planners J. Talmadge Woodruff and Harland Bartholomew agreed, repeating earlier dictums of Bassett and Bettman and reminding others that zoning had to be part of the comprehensive plan.

Planners pointed out the ramifications of zoning without planning in 1935. The amount of land zoned for various uses did not match communities' needs, and zoning boards granted too many special favors—all because zoning was not following a comprehensive plan. Five years later planner Hugh Pomeroy noted that zoning could encourage adequate housing for all income levels and rehabilitate blighted areas, but only if it followed a comprehensive plan. The point was made again in 1941. Zoning had become separated from or substituted for comprehensive planning, and unless it became part of planning again it would continue merely to maintain the status quo. One planner even wondered whether the public interest had become the status quo. Noting that Stamford, Connecticut, placed 80 percent of its territory in a residence zone with lot size and frontage minimums of one acre and one hundred feet, respectively, Flavel Shurtleff pondered whether the Connecticut court would find that action an "unreasonable and arbitrary control of private land, . . . or . . . that the regulations make for the public welfare in its broadest sense," since they made
the town a “more convenient and attractive place.”140 Others repeated the same concerns when the 1953 national planning conference held a clinic entitled “Modernizing Our Zoning.” There were too many and inappropriate nonconforming uses and variances, said one. We need comprehensive master plans so zoning can do more than preserve an outdated status quo, said another.141

By the 1950s zoning authorities Richard Babcock and Charles Haar thought the planners had lost sight of zoning’s purpose as well as their own. At a national planning conference, Babcock told the planners they had abdicated their place in formulating zoning’s role. He was concerned, as they did not appear to be, about the conflict between property protection and social equity. Haar added that the “safety valves” of the zoning process—the variances, amendments, and exceptions—had become the system. Zoning was “non-planning,” as too many planners and public officials responded to concerns about property rights and values.142

These concerns were only periodically expressed, however. Zoning had taken on a life of its own in practice as planners became preoccupied with its technical aspects. They were so busy looking at trees that they did not see the forest. Planners often discussed the design of zoning ordinances, details of their administration (how and by whom it should be done), and the standards that should be followed—all without reference to the larger purpose to be served.143 By the 1950s zoning ordinances had become increasingly complex, with proliferating categories and subcategories of use and varying standards and specifications for each. And the zoning board of appeals, that instrument to provide flexibility and prevent undue hardship, had become part of the problem rather than the solution.

Between the 1910s and the 1950s, reformist city planners and lawyers devised the idea of zoning to control land use and improve the urban environment. They developed the concept of comprehensive planning to be zoning’s theoretical basis, and for more than thirty years consistently (if infrequently) paid lip service to zoning as part of comprehensive planning for the public interest. In application, however, as the Columbus experience made clear, zoning often operated without planning and consequently exacerbated the very conditions it had been created to cure.