

# American Zoning & the Physical Isolation of Uses

by Laurence C. Gerckens, AICP

The earliest modern application of the land-use zoning power in the United States was initiated in 1867 in San Francisco to isolate obnoxious land uses in such a way as to protect the environment, both physical and social, of existing residences.

The physical separation and isolation of dangerous, odoriferous, or unsightly practices, such as tar boiling, soap making, fat rendering and dead carcass cremation, was viewed at that time as a reasonable governmental response to the unacceptable impositions of one otherwise legal activity upon another. Both the residences and these businesses had their right to exist, it was held, but not necessarily in close proximity to each other. Thus, the legal separation and isolation of land uses began, creating the foundations for many current zoning practices.

Among the earliest land use control cases to arrive at the Supreme Court of the United States was *L'Hote v. New Orleans* (1899) in which some residents contested the expansion of a "zone" in which houses of prostitution were permitted into a nearby "residence" zone, prostitutes being considered by some to be socially undesirable neighbors, if not threats to the public health. The Court supported the ordinance. Most early land use zoning laws dealt with few uses, and most commonly only those uses that were either clearly obnoxious or clearly socially unacceptable.

The New York Zoning Code of 1916, America's first "comprehensive" zoning code, relied on a "pyramidal" approach to permitted uses. That is, in the residence zone — considered the "highest" zone classification — nothing but residences were permitted. In the commercial zone, the next lower zone on the pyramid, commercial uses *and* residences were allowed. At the bottom of the pyramid were the industrial zones, where industrial *and*

commercial *and* residential uses were all permitted. In effect, industrial zones were really unzoned for all uses.

This early and much copied zoning code thus provided an ascending hierarchy of exclusion, from industry (the least exclusive) through commercial, to residence (the most exclusive, but still permitting all forms of residence). Because of this, the initial separation and isolation of land uses in most early American zoning was not absolute, as residences were commonly permitted anywhere in a city, and business and commerce were permitted in all but residence zones.

Los Angeles, in 1909, instituted the first major American land use controls that influenced vast areas of undeveloped land. Quite significantly, Los Angeles also created a multitude of different types of zones, providing the framework for the exclusive "single-family only" residence zones and varying types of commercial and industrial zones (e.g., "light," "heavy," "warehousing") that blossomed in the 1920s — zoning largely designed to protect the social sensitivities and land values of the new, affluent, auto-oriented suburbanites.

Mass ownership of the automobile allowed land uses to become spread over much wider distances. As a result, zones became larger. They also became more exclusive.

Land use exclusion was often justified on municipal economics and the efficient provision of municipal services (i.e., police, fire, garbage pickup) through the grouping of like uses generating like service needs. The courts, in the 1920s, also found that assuring single-family-only areas would lead to the promotion and protection of home ownership, which they equated with good citizenship — or so they said. Nevertheless, mixed residence-

type neighborhoods, and fine-grained zoning patterns providing diversity over reasonably short distances, were not uncommon in all but the perimeter areas of the American city through and beyond the 1930s.

The total exclusion of uses from zones and their isolation by vast distances had to await the prosperity that followed the Second World War. Virtually every American problem, real, imagined, or socio-psychopathic, was "solved" by physical isolation and segregation; from race relationships, to illness, to illegal behavior, to undesired contact with persons of lower income, spatial segregation was the answer — an answer embodied in and enforced by local zoning ordinances. In the 1950s, the "purity" of zones became the operative concept ("not-in-my-backyard") for the legitimization of segregation and social isolation at the very time it was being successfully attacked in the courts (*Brown v. Board of Education of Topeka*, 1954).

This increased exclusion of uses from zones, coupled with a penchant for low development density (low-density-is-best-density) resulted in vast spread cities of huge zones of developmental uniformity and life-style conformity. Most commonly, this meant the exclusion of all but the more affluent from participation in the new modern suburban-American society. ♦

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