

**TRANSCRIPT OF PUBLIC HEARING BEFORE  
THE CITY PLANNING COMMISSION  
MARCH 14, 1960**

in the matter of ....

Comprehensive Amendment  
of the Zoning Resolution  
of The City of New York

Text

Prepared by Department of City Planning  
C.P. 15278

VOLUME:1

CP-15278

PUBLIC HEARING

before the

CITY PLANNING COMMISSION

in the matter of a

PROPOSED COMPREHENSIVE AMENDMENT  
Pursuant to Section 200 of the New York City Charter

of the

ZONING RESOLUTION OF THE CITY OF NEW YORK

consisting of

TEXT AND MAPS

Held at City Hall, Borough of Manhattan

Beginning on March 14, 1960, and continued on  
March 15, 18, 21, 22, 23 and 25, 1960.

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HEARING ON PROPOSED TEXT  
Monday, March 14, 1960

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CITY PLANNING COMMISSION

James Felt, Chairman  
Francis J. Bloustein,  
Vice-Chairman  
Goodhue Livingston, Jr.  
Robert Moses  
Lawrence M. Orton  
Michael A. Provenzano  
James G. Sweeney  
Commissioners

Pauline J. Malter, Secretary

INDEX OF SPEAKERS -- MARCH 14 & 15, 1960

<u>Speaker</u>	<u>Page No.</u>	<u>Speaker</u>	<u>Page No.</u>
Abramovitz, Max	60	Isaacs, Hon. Stanley	170
Amster, James	301	Isley, Mrs. Edward J.	215
Barrera, Frank A.	16	Jones, Rev. Kenneth O.	248
Bartlett, Juliet	229	Judd, Orrin G.	297
Battista, Vito	158	Kane, William C.	237
Beane, Philip	383	Keally, Francis	6
Benedict, Jane	367	Kent, Letitia	386
Benjamin, Aaron L.	356	Kilham, Walter H. Jr.	177
Bergier, Arnold	48	Koenig, Max G.	115
Binney, Jane	258	Kosse, Samuel H.	315
Blaustein, Allen A.	203	Krikawa, Joseph F.	291
Bram, Harry	73	Lafarge, L. Bancel	310
Breines, Simon	145	Leigh, Martha Ross	70
Brill, William B.	105	Lescaze, William	63
Caliguiri, Thomas A.	294	Lindenbaum, Abraham M.	54
Caniveri, Peter A.	145	Lippe, Henry J.	44
Carideo, Fred J.	238	Lome, Max M.	90
Cedzich, William J.	197	Lyons, Mrs. Edith	154
Ciano, Peter A.	265	Mancusi, Leonard	359
Couland, Raphael H.	372	Mandel, Robert H.	235
Dapolito, Anthony	157	Marcus, Alan S.	64
Dietner, Doris	165	McGrath, John P.	79
Dowling, Robert W.	35	Meiniker, Albert	331
Dufour, Witham J.	365	Mindell, Mrs. Joseph	276
Friedman, Paul	215	Modugno, Joseph	302
Fuller, Robert	250	Molloy, J.G.L.	106
Goodnough, Lynn G.	128	Morgenthau, Robert M.	158
Gordon, Mrs. Milton	230	Morris, Eugene	395
Gould, Bruce J.	272	Murphy, Richard C.	40
Greene, Bradford M.	254	Newsom, Carroll V.	314
Guggenheimer, Mrs. Randolph	253	Nisita, Giovanni	129
Gulick, Dr. Luther	9	Passannante, Hon. Wm. F.	214
Gurney, Jack	305	Patterson, Mrs. Charles	281
Harris, Miss Helen M.	111	Pickard, Raymond A.	280
Hegeman, Bernard	287	Platt, Geoffrey	109
Heins, Mrs. Elsie	289	Potofsky, Jacob	175
Henlein, Millard	123	Powell, Douglas S.	181
Hershman, Mendes	32		
Holden, Arthur C.	98		

INDEX OF SPEAKERS - MARCH 14 & 15, 1960

<u>Speaker</u>	<u>Page No.</u>	<u>Speaker</u>	<u>Page No.</u>
Reach, Mrs. Barbara	324		
Redlich, Norman	154		
Reid, Edward S.	191		
Reinhardt, Rev. Charles	303		
Remer, Victor	69		
Rheinstein, Alfred	179		
Rich, Loramer	329		
Risbell, Rev. Paul W.	239		
Robbins, I.D.	25		
Rosenbaum, Irving I.	37		
Rusch, Mrs. Robert	70		
Salminea, Carl H.	255		
Savacool, William L.	192		
Scheuer, James H.	50		
Schreph, Russ	211		
Schulman, Jack	379		
Scofield, Leon T.	308		
Siegel, Harold	66		
Simco, Max M.	130		
Skenab, Rosaleen C.	246		
Smith, Leighton H.	163		
Solov, Abe	76		
Starr, Roger	347		
Stein, Joseph	375		
Stenkert, Elsa	153		
Stephens, Francis X.	361		
Straus, Nathan	291		
Tankel, Stanley B.	382		
Tegnell, G.G.	214		
Thabit, Walter	259		
Vennema, Carey	279		
Walker, Samuel R.	214		
Walsh, Arthur A.	213		
Whiteman, Lewis	242		
Wiener, Geoffrey R.	369		
Wolfson, Irving	212		
Wyckoff, Frederick A.	150		
Zakin, Ada	368		
Zeckendorf, William	44		

CHAIRMAN FELT: The meeting will please come to order.

Will the Secretary please call the roll?

SECRETARY MALTER: Chairman Felt, Vice Chairman Bloustein, Commissioners Livingston, Orton, Sweeney, Provenzano, Acting Commissioner Constable\* Quorum present. Zoning, Calendar No. 1: This is a public hearing in the matter of a Proposed Comprehensive Amendment, pursuant to Section 200 of the New York City Charter, of the Zoning Resolution of the City of New York, consisting of text and maps which are a part thereof and which are appended thereto. On December 23, 1959, Cal. No. 48, the Commission fixed Monday, March 14, 1960, for a hearing on this matter, and, for the convenience of the public, to insure orderly procedure, and to permit a full hearing, the hearing will initially be devoted to the Proposed Text and will be continued on the dates set forth below, starting at 10:00 a.m. on each day: Tuesday, March 15, 1960, Proposed Text; Friday, March 18, 1960, Proposed Zoning Maps for the Borough of The Bronx; Monday, March 21, 1960, Proposed Zoning Maps for the Borough of Brooklyn; Tuesday, March 22, 1960, Proposed Zoning Maps for the Borough of Manhattan; Wednesday, March 23, 1960, Proposed Zoning Maps for the Borough of Queens; Friday, March 25, 1960, Proposed Zoning Maps for the Borough of Richmond.

CHAIRMAN FELT: Thank you, Madame Secretary. I would like to read a brief statement at the outset. On behalf of the City Planning Commission, I wish to welcome all of you who have come here today to participate in or observe these proceedings. I am also happy to welcome the listening audience of municipal radio station WNYC which is broadcasting today's and tomorrow's sessions as a public service.

(\* Edward Hoffman, sitting for Acting Commissioner Stuart Constable)

The public hearing we open this morning is probably more vital to the well-being of the people of New York City than any public hearing held by the Planning Commission in the more-than two decades of its existence. It was well over four decades ago - in 1916 - that New York City took the pioneering step of enacting the nation's first zoning code.

The concept of regulating the private use of land in the interest of the general public welfare represented a great step forward. Not surprisingly it aroused bitter opposition in those who looked upon the use of land as a matter of purely personal concern, to be developed as they - and they alone - saw fit, regardless of the effects on neighbors or the general community. And not surprisingly, the dire predictions of its opponents that chaos and ruin would follow adoption of the zoning resolution, failed to come to pass.

Indeed, just the opposite happened. Instead of grass growing in the streets, there followed one of the greatest building booms in the City's history. But that is so often the history of regulatory legislation proposed to check unsound and unhealthy practices: bitter opposition and prophecies of doom, followed by a tide of improvement which carries along the professional no less than it does the public.

A zoning code is not, however, despite the flattering analogy some of its opponents have drawn, like the Constitution of the United States or the Ten Commandments. It embodies a set of specific regulations, not broad principles of law or conduct. And specific regulations, if they are to be effective, must be in tune with the condition, the customs, the technology, and broadly speaking, the environment, of the elements being regulated.

I need hardly remind anyone here that the elements regulated by a zoning code - - the use and development of land - - have undergone a complete evolution in the past forty odd years. The auto age and incredible technological leapfrogging which have burst upon us in the past few decades have altered the use and organization of land as profoundly and far more rapidly than did the industrial revolution in the 19th century. Witness shopping centers, supermarkets, horizontal factories and industrial parks, jetports, rooftop heliports, large-scale residential projects, and the space-covering and space-consuming private passenger car.

The 1916 resolution was swept and tossed by this accelerating current of change despite the improvised amendments we piled on in a desperate attempt to maintain control. In 1940, after the Planning Commission had been established and given jurisdiction over the zoning resolution, some substantial amendments were made. As a matter of historical interest, they were strongly opposed by most of those who today oppose our new proposal on the grounds that the existing zone is fine because of the 1940 amendments.

While the 1940 amendments did not have any of the ill-effects so morosely predicted by their opponents, unfortunately neither did they catch us up with change. Nor could they, bound as they were to the framework of the outdated 1916-resolution. Mayor Wagner recognized this when in 1950 the Commission, under his chairmanship, launched a comprehensive zoning study by outside consultants. However, he left the Commission before it was completed, and for a variety of reasons it was never brought to public hearing.

When the Mayor appointed me chairman of the Commission, we agreed that the adoption of a modern zoning code for New York was urgent and should be given top priority. In 1956, the Board of Estimate authorized us to contract with the outstanding architectural and planning firm of Voorhees Walker Smith and Smith for a comprehensive rezoning study. Following the publication of the consultants' recommendations in February of last year, the Commission held a series of informal hearings here and in each of the other boroughs to seek advice, recommendations and constructive criticism. On the basis of those hearings, of literally hundreds of subsequent meetings and conferences with interested groups and individuals, and of its own analysis and study, the Commission published its revised proposal last December 21st. It is this proposal which is the subject of today's public hearing.

Today and tomorrow will be devoted to the text of the proposed resolution. Five subsequent sessions over the next two weeks will be devoted to comments on the proposed zoning maps for each of the five boroughs.

We have scheduled these hearings not only to conform with the legal requirements of the City Charter, but because we believe they will serve a genuinely useful purpose. It is important that we receive the views of the public on the merits of an undertaking which - all technicalities aside - is of such vital importance to the public. And it is equally important, and we shall welcome, detailed recommendations and constructive criticism. We have made scores of text changes and hundreds of map changes in the consultants' original proposal, and I am certain that as a result of these hearings and of the continuing meetings and conferences we are holding we shall recommend many many more changes when we submit this proposal to the Board of Estimate for final action. It is in the



nature of a proposal of this type that there is always room for modification and improvements.

But speaking for myself, and I am sure for my colleagues, we shall reject any counsel of delay and postponement. The process of developing this proposal has been deliberate and long-drawn. Modern zoning for our City has already been too long in coming. In deference to the genuine problems of the professionals in real estate and building we have proposed a year's grace period, so that the new zoning will not, in any case, take effect before July 1, 1961, an ample period to cushion the impact of change and to allow for such further modifications as may be deemed desirable. But in deference to the general public welfare, and to all the citizens of our City, we cannot delay any longer.

The obligations imposed upon us by Charter, and the sense of duty we must show to New Yorkers of today and to succeeding generations, require us to move forward in providing New York with modern zoning - zoning aimed at reducing congestion, increasing the opportunities for light, air and open space, providing encouragement and adequate protection for both residential and industrial development, recognizing the need to provide increased off-street parking, and, perhaps, most importantly providing the foundation indispensable to the fundamental renewal of New York that we must and we will undertake.

Everyone who desires to speak will be heard. In deference to the great number of those who wish to speak, I would ask that all speakers keep their remarks as brief and concise as possible and attempt to avoid duplicating in detail what has been said before. We will welcome any supplementary briefs you may wish to send us as an extension of your remarks. Out of courtesy to succeeding speakers,

I will reserve the right to ask anyone whose testimony becomes too lengthy to complete it at the end of the day's session.

And, now, before we call upon our first speakers, I would like to introduce my colleagues on the Planning Commission. To my extreme right; that is, of the Commissioners; is Acting Commissioner Hoffman, Commissioner Sweeney, Commissioner Livingston, Commissioner Orton, Vice Chairman Bloustein, and Commissioner Provenzano. Our first three speakers will be in this order, so that you may arrange your time. First, Francis Keally, then Luther Gulick, and then Frank Barrera. I might say at this time that the usual procedure at Planning Commission hearings and, also, hearings at the Board of Estimate, is to first hear those opposed to an item and then to hear those who favor the item. Very often, this is done on an alternating basis. But, in connection with this Zoning Resolution, there are so many who favor the item but who have some points of opposition, so many who oppose the item but have some points in favor -that we are calling indiscriminately on speakers whether they appear to be in favor or in opposition. I think that this is the fairest procedure under the circumstances.

FRANCIS KEALLY, ARCHITECT

MR. KEALLY: Mr. Chairman and other members of the Planning Commission, my name is Francis Keally. I am a practicing architect in New York since 1928. I have been President of the New York Chapter of the American Institute of Architects. I am Past President of the Municipal Art Society of New York, Past President of the Fine Arts Federation of New York.

Let me state at the outset that a premium should be placed on good planning, which is the backbone of this proposed change to the existing zoning resolution. There can be no question in the minds of thoughtful citizens that the time is ripe for a complete revision to the outmoded

and inadequate existing resolution, some forty years old, which is incapable of solving the pressing and complex problems facing the City authorities at this very moment. The new document is a comprehensive, imaginative and flexible contribution to guide the orderly growth and development of this great metropolis. This modern zoning conception is similar to those adopted in Chicago and other large cities, which have not adversely affected the economics of real estate activity in those areas.

Here are only a few of the tragic defects of the old resolution with its 2500 amendments: Number one - over-building and congestion occur in certain areas. For example, the new Grand Central building, which is being projected, will spill some 37,000 people into the streets and subways of that area at the close of each working day -- an area that reached the saturation point years ago. I ask this question: Is this a healthy condition for New York?

Number two, paralysis is invited because no logical provision for parking vehicles have been provided. As you know, a second roadway is now being added to the George Washington Bridge, which will double the number of cars entering the City of New York at that point. But where are these additional cars to be parked? This condition will cause further chaos and eventual strangulation unless some logical solution is devised to relieve this traffic congestion through this new resolution.

Number three, the architect's imagination is stifled by the present stringent controls on height and shape of structures, thus encouraging the creation of monotonous and mediocre buildings. If you do not believe what I say, I ask you to take a look at some of our new structures, recently erected, as a confirmation of this statement.

Here are a few of the significant advantages of the proposed new resolution. Number one, it would embrace the total impact of building upon the City as a whole by encouraging permissible, and I stress - permissible - regulations as opposed to prohibitive regulations now in force.

Number two, it would abandon the shortsighted approach of controlling the shape of a single building on a single lot - thus establishing a regulation that would permit this same structure to be part of its entire environment.

Number three, it would take into account the historical significance of each neighborhood and its future need. For example, is there anyone in this room who would not support the preservation of Washington Square and Gramercy Park and other similar historical areas in this City of ours.

Four, it would encourage acceptable standards of light, air and open spaces such as one finds in Washington - and you all know Washington - one finds in Paris, and also in London.

Number five, it would provide adequate parking.

Number six, it would put certain limitations on the size of buildings so as to prevent overcrowding and overtaxing of surface facilities. Now have you ever been on the subway platform at Grand Central or Times Square around nine in the morning or five in the evening? It is a deplorable, disgraceful, and highly dangerous situation that cannot be tolerated very much longer.

Next, it would provide sensible regulations to accommodate large-scale construction planned in an orderly fashion.

Any such resolution as the one under consideration can never be a perfect document. I think we all admit that. But we must bear in mind that a few must always suffer in the interest of the public good.

This is the basic philosophy behind the new resolution, in which sound planning takes into account the physical growth and arrangement in relation to the social and economic needs of our community.

Finally, as the Herald Tribune observes this morning -- on the editorial page of the Tribune -- which I think is well worth repeating, and I quote part of it. And I quote this: "New York never stops changing, and the danger is that without modern zoning we shall keep on magnifying error upon error that is bound to lead to more physical and economic discomfort."

Obviously, had this new zoning been done at an earlier stage in the City's growth, a lot of the present difficulties would not be with us today in such an aggravated form.

And, finally, I say this to you, gentlemen: It is imperative that decisive action be taken upon this new resolution without further delay or we shall forever lose the opportunity to meet effectively this urgent need for rezoning New York in the interest of the well-being of the citizens of this great City. Mr. Chairman, I thank you.

CHAIRMAN FELT: Dr. Gulick?

DR. LUTHER GULICK

DR. GULICK: Mr. Chairman and members of the City Planning Commission, my name is Luther Gulick. I am President of the Institute of Public Administration of New York and am Co-Chairman of the Committee For Modern Zoning. This is a Committee of a hundred of New York's leading citizens. In the main, they are not specialists in zoning. They are leaders in the business, commercial, financial, educational, religious and civic world. Since I resigned as city administrator three years ago I have visited most of the major American cities and several important cities of Europe, Africa and Asia to look at their present day problems of growth and development.

Keally / Gulick

The metropolitan explosion as seen here is a world-wide fact. All major cities from Tokyo and Hong Kong westward around the world to Seattle, San Francisco and Los Angeles are wrestling with an explosive population growth and urban in-migration. They are almost all swamped, bedeviled with growing slums and decay at the center, rising crime rates, increasing traffic congestion, and shortages of water and sewerage, and other urban services.

But nowhere are things moving so fast as right here in the United States, and in the New York metropolitan area.

With all these headaches there is a comforting fact: our problems here in New York arise not because this city is dying, or losing its place in the world, but because of the unsurpassed dynamic quality of the business, financial, managerial, communications, "style," entertainment, cultural, educational, and international leadership which now turns to New York as "home." Our difficulties come from our successes.

But make no mistake, we are paying a terrible price for our successes not only economically with increasing costs of doing business and increasing costs of living, but also humanly and socially, through traffic congestion, noise, dirty air, bad housing, overrapid obsolescence, crime, handicapped schooling, and the unnecessary aggravations of badly arranged city living.

By our bad arrangements, we make it hard for ourselves. We get in each other's way. We have too few streets for our buildings and shops; too few highways and parking facilities for our cars; too few schools for our children; too little sunlight and clean air for our health; too long trips to and from work; and too high costs of doing business. And it is all because our arrangements are bad and out of date. They belong to the horse and wagon era, not to the day of autos and jets.

We go abroad and we see beautiful cities, where even we Americans enjoy walking right in the center of town. And we wonder how those poor folks can have so much beauty and dignity and convenience in their cities, while we, with all our wealth, have so much that is ugly and ignoble and inefficient. The reason is our explosive growth without adequate plans and effective zoning.

The cost of correcting our mistakes and catching up with the requirements -- some of which no one could have foreseen -- is colossal, provided you want to do it all tomorrow. But if we are willing to proceed more gradually, step by step, taking advantage of the natural pace of redevelopment, the changes can be produced at little if any more cost than will be spent in any case in future construction and development. With proper arrangements, that is, with a sensible and developing plan, and with agreement and enforcement, that is proper zoning, we can have the kind of a city we want in less than the span of one man's lifetime.

Forty-four years ago, I sat in this very room and heard the public and the Board of Estimate and the experts debating the New York Zoning Act of 1916. George McAneny, E.M. Bassett, Henry Bruere, Nelson Lewis, Herman Metz, John Purroy Mitchel, Lewis Pounds, Marcus Marks and others were here. When the Zoning Act was adopted in July 1916, it was the first comprehensive zoning ordinance in American history. I wish I had a tape recording of that hearing. Some of the same speeches of fear were made then as I have seen in the papers in recent weeks. You will probably hear them again today.

Some people even today think that zoning will hurt real estate. They were dead wrong in 1916, and they are dead wrong now. Good zoning is the best insurance real estate can have.

Good zoning is the only insurance we ordinary people can have for light and air.

Good zoning is the only road toward solving our intolerable traffic problems.

What makes the immense values of all this precious real estate here in New York? Is it the men who build the buildings? Not at all. It is the people and the businesses who crowd into this little rocky island and its surroundings with homes and economic activities. If this town fails to meet our requirements as human beings, and the requirements of business, we and business are going to move out and away from the dirt, congestions, inconvenience and high operating and living costs, and the immense values of these towering buildings will come tumbling down like the walls of Jericho, and the man who has built the biggest building on the biggest lot will be the biggest bankrupt.

New York is in direct competition with the major cities of this continent, and at many points with the major cities of the world. This competition involves both efficiency of operation and attractiveness for human existence. If we permit the arrangement of the city to become less efficient for the enterprises located here and less and less attractive for the people who live here, we might become a second-rate, or third-rate, center all because of our own folly.

I see a vision of two New Yorks 50 years from now. I call these City No. I and City No. II. City No. I has been described in great detail in the recent Harvard studies, made under the auspices of the Regional Planning Association and paid for by the Rockefeller Brothers Fund and the Ford Foundation. This is the city which will develop under present trends of



population movements and present economic forces, many of which are bad for New York; and under the present zoning ordinance, which is badly out of date. Even so this city will have a fine business center with tall buildings. This will be surrounded however by grey areas of economic decadence within which no sane private investor will be justified in sinking his money. Either these grey areas will be residential, industrial and commercial slums, or the city will go broke trying to build subsidized housing for a million or two added welfare clients. In such a city more and more people will move out of town along with shops and industry and jobs, but even so the streets will be jammed with traffic, especially after the commuting railroads go under. That is the city which will be here if we let present forces and the present zoning ordinance stand.

City No. II is the city we can have for our children if we will think straight and act courageously now. City No. II is a city encouraged to grow in accordance with a sensible and developing plan, held in line with modern zoning. It will have several fine business centers, surrounded by independent service and easily reached residential developments for all income levels, all related to streets and mass transportation. It will have open spaces, sunshine, and clean air. It will have standing vehicles off the street. It will have easy circulation for pedestrians in the shopping and in the amusement centers. It will have space for the types of industry which need to be in the heart of the city. This city will be filled with jobs, decent homes, room for children, and thriving businesses, partly because the cost of doing business in such an efficient community will be within reason.

How do we get City No. II, the city of our dreams? We get it by a combination of firm public action and continued private investment channeled by planning and zoning into a harmonious urban structure. The Mayor's new approach to slum clearance, with its new emphasis on middle income housing and space for industrial and other uses is another powerful step in the right direction. But the heart of the matter is modern zoning.

Now is the time of decision for New York in selecting which one of these two cities we want our children to live in. It is later than we think. Other cities are getting rebuilt, rearranged and rezoned to fit their modern needs. Soon they will begin to press us competitively. The time for action is now. If anyone comes before you and asks postponement, I think you have a right to ask for a specific list of the changes he desires in the ordinance, identified by section and line. Formless feelings of indefinite doubt are now out of place. We have known for years that a new zoning system was necessary; and we have known for months what it would look like. If anyone calls for more delay and more indecision now, gentlemen look for the wolf in sheep's clothing.

The purpose of zoning is to bring some order out of a jumble of chaos. This is done gradually over the years of setting a pattern. Most of the building will be done by the creative forces of private enterprise. What zoning does is to create a sound climate for investment, not just for a few spectacular skyscrapers, but also for many lesser commercial, industrial and residential developments. Cities need realistic guidelines as they grow. Without them, we court slums, premature economic decay and costly obsolescence. Every game needs rules. Imagine football, basketball or baseball without any rules! The real estate game is no exception. It too needs rules both to protect the players and the public. And that is what zoning is.

Gulick

Some real estate people seem to think they will be injured and their chance to "make a million" will be blocked by modern zoning. This is a shallow view. The reputable and responsible developer has nothing to fear. There are three reasons for this: first, the new zoning applies with equal hand to everybody, zone by zone. People who want land and buildings in the future are going to want land and buildings even more under the new zoning than under the old; second, the stability of investments will be much greater under the new modern ordinance than under the old inappropriate patchwork system; and, finally, if there are individual hardships for individual pieces of property which can be demonstrated by evidence, they can always be dealt with as a "variance" under Article VII, section 24-21 to 22 of the new ordinance. Under the circumstances, claims of "irreparable damage" are a smoke screen.

There is a moral problem involved in modern zoning, Mr. Chairman. We, as individuals, have a right to be concerned selfishly in our own economic welfare. We have a right to seek profits from our ventures. But we also have a responsibility to the next generation, and to our children's children. This is a moral responsibility that New Yorkers have never shirked.

Just a little social conscience today, just a little sense of duty, just a little acceptance of our obligations to the future, and we will find that we have made a wonderful investment in the long-range welfare of New York. This is all it requires to give us modern zoning now and thus to start on the highway that leads straight into the city of our dreams.

Gulick

CHAIRMAN FELT: Mr. Barrera?

FRANK A. BARRERA:

MR. BARRERA: Mr. Chairman, members of the City Planning Commission. I am Frank Barrera. I am here today representing the Metropolitan Association of Real Estate Boards.

It is most unfortunate that we find ourselves compelled to appear here today and expected to give well considered views on a proposed new zoning law which, in its present form, has only been made public less than eighty-five days ago. It is almost incredible that this Commission stubbornly insists on such unseemly haste in a matter which so vitally affects the future of this great City and every one of its citizens. One can only conclude that this rush act is motivated by a determination not to afford adequate opportunity for a full examination and disclosure of the content and effects of this all-embracing proposal. Does this commission really believe that interested persons and organizations have had a reasonable time to acquaint themselves with all of the provisions of this 330,000 word document, and its total effect upon this city?

Those persons and organizations who approve this proposal in its present form can only do so in principle because no one has had the opportunity fully and adequately to study its contents and to make detailed analysis of its effects upon the many phases of the economy and growth of this city. We here state that in our opinion such approval in principle is a disservice to the community. Why is it so important to adopt the theory of this proposal without adequate study of its practical effects? We are told to accept it in its present form even though admittedly it needs revisions in many details and that such revisions can be made later. Is this a

sound method of dealing with a subject that reaches into every phase of our economy? We think not. As the Commission has publicly and privately announced its determination to proceed with these hearings now and to press for immediate action in the Board of Estimate, we are left with no alternative other than to repeat here our request for additional time for ample study and to serve notice that we intend to pursue this course when the matter reaches the Board of Estimate.

Permit me at this time accurately to state the position of the Metropolitan Association of Real Estate Boards on the question of a revision of the zoning law of this city. We feel it is necessary to do this, because for obvious reasons, we have been represented by the proponents as perpetual objectors to zoning regulations in this city. But what are the facts? In 1950, in the critical analysis issued by the Metropolitan Association of Real Estate Boards on the Harrison, Ballard & Allen Proposal, the Association agreed "that the present Zoning Ordinance is in some respects obsolete and in need of re-drafting", and further, "gave assurance of its continued interest and effort to the end that with reasonable promptness the City of New York may effect such amendments as are necessary to modernize and strengthen the zoning resolution."

Again in November 1959 in our critical analysis of the Voorhees, Walker, Smith & Smith Proposal, we stated that "It is hoped that the publication of this analysis will evoke further active participation and discussion by a much larger segment of the population of this City than has previously interested itself in this important subject, to the end that a sound workable revision of our present zoning law will become a reality in the not too distant future." Do these pub-

lished statements sound like the statements of an organization unalterably opposed to revision of our zoning resolution? If the commission really believes that we are not sincere in our statements, we say to you put us to the test, ask for our support on working out with you and others a modern revision of our zoning laws. But do not give us a completed document conceived in absolute secrecy and tell us that you are determined to pass it without adequate time for study, and at the same time, attack our motives when we object to such procedure on so important a subject.

In this connection, we think that it is time that this commission publicly admit that it was error to characterize us as 'the people who are the professional heirs of those who bitterly opposed the adoption of the 1916 zoning resolution and predicted that grass would grow in the streets and that building would come to a halt'. It is time for the commission to admit that this statement was completely contrary to the facts, and that the records show that real estate interests, and particularly, the real estate boards were in the forefront of those who helped to conceive the 1916 zoning resolution and vigorously advocated its passage.

So that there may be no doubt about this question, permit me to repeat a few quotations from the record. Edward M. Bassett, recognized as the father of zoning in this city and in this country, in his book on zoning published in 1936 and reprinted in 1940, speaking of the adoption of the 1916 zoning resolutions states: "One reason for the permanency and smoothness of operation of the New York City Zoning Resolution is that it copied no other zoning ordinance but was built up during several years by property owners who were in constant touch with the Districting Commission, directly

and through their organizations. When it finally passed there was no opposition." I repeat "There was no opposition".

Further, at a public hearing on January 20, 1915, the President of the Board of Aldermen, speaking of the proposed resolution, said, "This ordinance was prepared from the recommendations of the commission of the Board of Estimate on Heights, Size and Arrangement of Buildings in the City of New York. That commission was made up of men representing the legal side of the question involved, the real estate side, the building side, the architectural interest, the fire interest, the social conditions, in fact every element that was interested in this subject. And those who composed the membership were those best known in the city as the experts on these subjects." The record further shows that those appearing at the hearings and urging adoption of the proposed resolution included representatives of the real estate boards and various other real estate organizations, and that not a single organization of any kind was in opposition to the general proposal.

It is clear, therefore, that our position has remained unchanged throughout the years. We always supported and continue to support sound zoning as an important factor in the orderly growth and development of this city, and we always offered and we still offer our assistance in the formation of a proper revision of the present ordinance.

We think it is time for this Commission publicly to explain why this proposed new zoning law was prepared in absolute secrecy. Why was it necessary to withhold from everyone all information as to the contents of this proposal until it was in completed printed form? Contrast this with the procedure adopted in the formation

of our 1916 zoning ordinance where all interested groups actually worked with the commission in preparing the plan. Contrast this, too, with the procedure adopted only a few years ago in Chicago when representatives of between 75 and 100 organizations actually worked with the commission over a period of five years in preparing section by section its new zoning law. Had such a procedure been adopted here, we would not be compelled today to ask for additional time for study, but instead we would be making positive suggestions and constructive criticisms.

We think it is time for this Commission thoroughly to explain why a revision of the zoning law could not be accomplished within the framework of our existing Resolution. We are not satisfied with the general statements that the weaknesses of the existing Resolution cannot be corrected because they are "built into its basic framework". The public should be informed as to whether any serious study or attempt was made to correct such weaknesses without discarding the basic framework in its entirety. It appears to us that no such effort could have been made but rather that the preparation of this proposed law was entered into with the preconceived notion that the present zoning law must be forgotten completely at all costs. Evidence of this seems apparent from the fact that even definitions of everyday terms contained in the present law are changed in this proposal. Such terms as "width of a street", "curb level", "street level", "height of a building", "depth of a lot", etc. have been re-defined in the proposal. This was done in spite of the fact that the wording of most of these definitions have been subject to previous Court tests or departmental rulings which has given them a preciseness that eliminates all uncertainty while new definitions would mean new doubts and litigation.



We think it is time that the City Planning Commission should make available to the public its detailed studies, if any were ever made, as to the comparison of the bulk and density of each type of building presently erected on typical plots in every area of this city as contrasted with those which would be permitted under the proposed new law. The people of this city have not been so informed up to the present time and cannot make intelligent decisions on this proposal until such information is available to them. If such studies have not been made, the Commission should so state and no action should be taken on the proposed law until such studies have been made, and the information made available to the public.

We think it is time that the Commission should make public its computations as to the number, location, size, type of construction and assessed value of all buildings that will be made automatically non-conforming by the mere adoption of this proposal. Surely the City Planning Commission must have made such computations in considering the effect of the provisions directing termination of many of these uses within specified periods. The results of such study is of the utmost importance, not only to the particular property owners affected thereby, but particularly to the City as a whole by reason of the fact that the terminating of an industrial or semi-industrial use and replacing it with a residential use will most certainly have a considerable effect on taxable values in this city, and on the cost of furnishing of additional facilities in such area for schools, hospitals, sanitation and the like.

While on this subject of non-conforming uses, it may be well to clarify our position in opposing the particular provisions contained in the proposed law. In our analysis of these provisions,

we have stated as follows: "We do not oppose the principle of terminating at some point non conforming manufacturing uses in residence districts, with the reservation that the mapping be thoroughly studied so that the areas may be mapped according to their immediate and potential use, and that no definite number of years be assigned generally to the outlawing of non-conforming uses."

However, we do strongly oppose the retroactive provisions as set forth in the proposed resolution by reason of the fact that the formula is arbitrary and inflexible and does not take into consideration the nature of the business of the property owner, the improvements erected on the land, the character of the neighborhood and the detriment caused to the property owner without compensation.

We have been told that we are wrong in our stand because a committee of a Bar Association has stated that these non-conforming provisions may be legal. We would like to know when we ever stated that they were illegal. We have never taken a position on the question of the legality of these non-conforming provisions. Our opposition was based on the undesirability of adopting such an inflexible and confiscatory formula as that proposed. Is the adoption of legislation to be guided solely by whether it can pass the test of legality? It would seem to us that the more important question should be whether it is in the public interest. We must emphatically state that in our opinion these non-conforming provisions are not in the public interest, and if adopted, would destroy public confidence in the security of real estate investments.

On the question of Performance Standards, our position has been misstated also. We have taken no stand on the question of the legality of such standards. Our present opposition is based on the

fact that in our opinion Performance Standards have no place in the zoning resolution. They may be appropriate in a building code but only serve to cause further complication, confusion and uncertainty in a zoning law. Such standards embrace matters entirely within the jurisdiction of other city departments and agencies, and should be left to such departments and agencies for formulation and enforcement. We feel that they are fully competent to perform such functions. The inclusion of these Performance Standards in the zoning resolution would lead one to believe that it is a step in a program contemplated to create a super-bureaucracy in the City Planning Commission. We do not believe this to be in the public interest.

As to the administrative features of this proposal, we again reaffirm our previous statements that the powers of the Board of Standards & Appeals will be drastically reduced to the point where that necessary agency would no longer function effectively to grant relief in appropriate cases. It has been said that in the present draft of the proposed resolution, the City Planning Commission has restored these powers to the Board of Standards & Appeals. As you well know, this is not so. The only substantial change made by this commission in the consultants' proposal was to empower the Board to grant extensions of expiring variances previously issued. In our existing zoning law, the power of the Board of Standards & Appeals to grant variances has been gradually extended from 1916 to the present time to meet situations that have developed over the years. The adoption of the proposed law would completely reverse this trend and would put to an end the power to grant relief in most instances. We believe that the present variance procedure has worked well and should be continued.

As you well know, I have only scratched the surface of some of the important questions raised by this all-embracing proposed zoning resolution. Time does not permit me to deal with these questions at length at this hearing. However, before concluding, I wish to state most emphatically that the Metropolitan Association of Real Estate Boards reaffirms its conclusions in opposition to this proposal as set forth in our critical analysis issued last November. We are now at work further analyzing the proposal in its present form as submitted on December 21, 1959. When we have completed this work, we expect to prepare a supplemental analysis setting forth in detail our further conclusions and recommendations.

We are in agreement with the desired goal of all interested parties for an improved zoning law for the City of New York but we are mindful of the fact that the zoning power is an extension of the police power, which should be exercised with discretion in the interest of the health, safety and welfare of the community as a whole. We offer our cooperation in the effort to improve and strengthen the existing zoning resolution and we strongly recommend that studies preparatory to the adoption of a revision of the text or mapping changes be arrived at by the joint effort of groups consisting of representatives of the appropriate City authorities, together with representatives of all interested parties including civic organizations, real estate boards, architects, engineers, financial institutions, owners and tenants in the several boroughs. Until such studies have been made we will continue to fight for the defeat of any plan conceived in secrecy and rushed to adoption without a thorough understanding of its effects upon this great City. Thank you.

CHAIRMAN FELT: Thank you, Mr. Barrera. Mr. Robbins, and after Mr. Robbins, Mr. Mendes Hershman.

I. D. ROBBINS, PRESIDENT, CITY CLUB OF NEW YORK.

MR. ROBBINS: Chairman Felt, members of the City Planning Commission, my name is I. D. Robbins, and I am the President of the City Club of New York. In October, the City Club of New York held a civic luncheon at which I think most of you were present at which we showed a motion picture that seemed to charm everyone. At least we thought it did, until recently, we heard that the spokesman for the Metropolitan Association of Real Estate Boards attacked it rather severely. This was at a recent meeting of the group. The picture that we made was shown only once and must have made a pretty profound impression to have warranted such violent criticism four months later. While there were close to a thousand civic leaders present at the luncheon - with only one showing - we thought the movie was "Gone With The Wind" but from what we heard about the recent luncheon of the Metropolitan Association of Real Estate Boards, it seems it should have been entitled "From Here to Eternity".

In case you want to know what it was that made Mr. Barrera so angry, I would like to remind you of the central theme of that motion picture, and here it is: From 1910 to 1916, the City Club of New York, which started in 1892 and which is the oldest, continuously operated organization in the City of New York; and from 1910 to 1916 we agitated for the first zoning ordinance in the United States.

At that time, the spokesmen for real estate - contrary to what Mr. Barrera just said when he said that the resolution passed unopposed - the unopposed part was only at the final passage.

I assure you that the historical record is complete. It was opposed at every step of the way until, finally, it was impossible to oppose it any longer. The representatives of real estate said that if the City were zoned, we could sell it back to the Indians at a discount. But we had a Mayor then, Mayor Mitchell, who didn't fall for that kind of stuff and he got the zoning ordinance passed and signed it. And lo and behold, we had the biggest building boom in history. Now that we want a new zoning ordinance, the Jeremiahs are here again. Again, we hope that we have a Planning Commission, a Mayor, and a Board of Estimate who will recognize the need. Now, that's all. That's all the movie said -- we needed a zoning ordinance, we were in favor of it, the bad guys were against it, the good guys were in favor of it, and again the bad guys were against it. Now, why should they have gotten so angry about that? I don't understand that. The historical position of the City Club with respect to zoning is well known to your Commission. Our organization sponsored the 1916 resolution, and you know that I testified on April 13, 1959, at the first hearing before this Commission and endorsed all of the technical innovations in the new program as well as the general theory. I stated at that time that the Club would not concern itself with mapping but believed that some greater density might well be considered for certain areas.

Now, we are back before the Commission and wish to express our general satisfaction with the changes which have been made. Incidentally, I have a very careful technical memorandum on that. We think that the new R 9 District is sound; that the use regulations are sound; that the concept of room count instead of dwelling units, is sound; that the additional bonus provisions are sound. We are not sure about the elimination of the office of Zoning Administrator and we suggest that you consider the difficulty that the lawyers, the builders, the architects and others presently have in the Department of Buildings. Perhaps, administratively

Robbins

it will be possible to train specialists in zoning administration within the Buildings Department. At any rate, we're not too sure as it is now operated, and we think you ought to consider the matter very seriously.

Now, I would like to talk about the really critical problem that faces you today, which is the politics of this issue. There is not a man of good will and knowledge anywhere who will not readily concede both the need to zone for the control of the use of real property and for the protection of its value and the need to have zoning accurately reflect the community's aspirations for orderly growth and development. It is only when we get into the question of whose ox is gored that opposition really develops.

The City Club of New York believes that the Planning Commission and the Board of Estimate should adopt the new zoning resolution forthwith and substantially in its present form. We believe that the best test of the resolution will come during the first year of its operation and that will be plenty of opportunity to observe it in practice and modify it if necessary. We believe the time has come to stop talking about a new zoning program and start doing something about it. We respect the right of any opposing group, no matter how self-serving, to be heard. But we reject the premise that those who are financially interested should take precedence over those whose general welfare is at stake.

One of the most popular theories about how to achieve satisfactory municipal government is that known as the squeaky wheel theory. This is the theory which says that to be a successful administrator you worry about the special interest which makes a big noise, but you can afford to avoid the public interest which is not publicly directed at you.

There is another theory, and I believe it is the one to which this Commission subscribes, which says it is the duty of a public servant to examine the true nature of the matters before him, testing them on the basis of what is best for the most people.

Robbins

The City Club believes that the opposition to the new zoning resolution has been blown up out of all proportion to its true merit or to the amount of consideration which that opposition should properly receive. The City Club of New York believes that the opposition to this resolution is coming largely from those who will be prevented by the resolution from further abusing the people of New York.

We have recently read some statements by a representative of the Metropolitan Association of Real Estate Boards, who spoke just before me. The effect of his testimony was the same but the tone was quite different from their tone at the luncheon meeting recently. Mr. Barrera, at that meeting, seemed to be trying to outshout Mr. Battista, whom you've heard from time to time, and I think that his objections were about as responsible. He holds a threatening pistol to your head if you dare to go against the wishes of his group. But, in truth, it is only a water pistol, as we will show you.

We believe that anyone has a right to defend his interests but we are afraid that the propaganda of the Metropolitan Association of Real Estate Boards is blowing up the status of this group in the zoning fight out of all proportion to its true importance.

Part of this is due to the fact, that the Real Estate Board has been able to get a great deal of space devoted to its case in the real estate sections of the city's newspapers. Now, I don't think any bona fide newspaperman would deny that the real estate sections of their newspapers are just trade paper sections, a place where real estate men talk to each other. They are a part of the paper, like the travel section, the fashion page, the automobile news, where a certain amount of free space is taken for granted. Since the editors and publishers don't expect any but the initiated to read the trade news in the real estate sections, they tend to permit publication of stuff which they would never tolerate in the legitimate news sections of their papers.



Unfortunately, some of our public officials may not be sufficiently sophisticated and may tend to assume that the frothings on the real estate page should be given the same weight as the legitimate news up front.

You are also confronted here by the classic institutional spokesman. Historically, trade associations, and I've represented many of them in the past, have often taken positions on issues which few of their members would be willing to do in their own names, to take in their own names.

Businessmen, individually, are often quite enlightened. In mass, the institutional spokesman seems to make them unusually reactionary. For instance - I use this example because it was in all the newspapers - two weeks ago I was present at the City Council in connection with the hearings on the low wage problem in New York.

Mr. Ralph Gross, representing the Commerce and Industry Association, had an unappetizing job to do. He did not, of course, defend the present low wages. All he did was to ask that no action be taken while the matter was studied further.

The point is that no business representative was willing to appear in an anti-social light. Mr. Gross, as an association spokesman, took on the unpleasant task. Now, I would gravely doubt whether the members of the Commerce and Industry Association employ any significant number of persons at \$1 an hour, or less. I felt sorry for Mr. Gross. His heart wasn't in it. In the same way we must feel sorry for those who speak for real estate in opposing modern zoning.

The real estate business is a great business in New York. It consists of owners, operators, managers, builders, contractors, brokers, salesmen, consultants and doubtless numerous other categories. When the representative of the Metropolitan Association of Real Estate Boards appears to inveigh against a new zoning ordinance, one is supposed to get the impression that this great industry has risen up in mass to oppose new and better zoning, to oppose progress in the form of new and better zoning. How utterly absurd!

Robbins

The fact of the matter is that most of the people in the real estate business are hardly affected at all. Of those who are affected, a good proportion, if not most, might well be sympathetic with what we are trying to do here. Of those who are opposed, a high proportion are not investors at all. They have no dollars involved. When we get right down to it, we would probably find that a few interested people have moved the entire great real estate industry, spoken for it and tried to lead the public to believe that a great storm of protest has arisen.

You know how uncomfortable the average doctor feels when he reads some wild statement by a representative of the American Medical Association. That's the way many of our real estate friends feel. They seem always to be apologizing for the behavior of those who claim to speak for them.

The interest of real estate people in this question might well be explored a bit. It is our impression that the really significant real estate interests in our city would not oppose the new zoning program, contrary to the effort that has been made to give you that impression. It is our impression, and many of them are members of our Club. We know, for example, that Mr. David Tishman is sympathetic with the new program. We have very grave doubts if Mr. David Rockefeller, who has taken such an active role in redevelopment work, would associate himself with Mr. Barrera in his opposition. Surely Mr. Robert Dowling will not. We can go down the line of the significant owners and get the same kind of story.

Almost as interesting as the economics of real estate, are some of its folkways. Real Estate is the biggest municipal industry, they say. But we say they can make money only in relation to the health of the city. It exists because the city is here. Some times our friends in the real estate business act as if they put the city here or as if it were put here for their benefit. As a practical matter, we have observed that real estate people are very flexible. Those I know are extremely flexible. They are fast thinking, fast moving, creative, constructive.

This is especially true of that intrepid and creative group which invests its own money, time and efforts in real estate. Some, unfortunately, only know how to do what the other fellow has been doing. They are not able or willing to look for new opportunities in real estate. But there will always be leaders in the real estate business and we needn't be afraid that commercial opportunities in our City will dry up. All that new zoning will do is redirect commercial energies.

Every one of us remembers when Park Avenue was a street of apartment houses and little else. And then an able builder came along and located a fine office building at 57th Street and Park Avenue. This was creative. Ten years later the copiers may well overdo that very thing. The man who located the first luxury apartment house in Greenwich Village opened up a magnificent market and did it with style and proper regard for propriety and the feelings of his neighbors. Remember the compromises that were made on the development of the Washington Square building, the No. 2 Fifth Avenue building, and how intelligently that builder worked with community elements to make sure it was done properly.

We strongly suspect, however, that among the opponents of this resolution are the kind of come-lately's who would fill every corner and side street of the Village with semi-fireproofs festooned with fire escapes. That's what will happen.

We are sure that as long as there are able men in the real estate industry, there will be no lack of pioneering and the zoning ordinance which you are contemplating will do nothing but sharpen their ingenuity and show them where the new opportunities lie. It is the men without imagination, without a sense of the wonderful future, who oppose what you are doing. Generally the best test of zoning and the real estate business as well is the test of history. No zoning program has ever stopped the building and construction industry. If there is an adequate supply of reasonably priced financing available, and enough customers, the industry will build on the moon. But we would strongly advise the administration there to have its zoning ordinance ready.

Thank you very much.

Robbins

CHAIRMAN FELT: Thank you. Mr. Hershman, then Mr. Dowling and then Mr. Rosenbaum.

MENDES HERSHMAN, representing Association of the Bar of The City of New York

MR. HERSHMAN. Chairman and gentlemen of the Commission. I appear on behalf of the Association of the Bar of The City of New York to voice its approval of the proposed zoning resolution which is before you today. When first I learned of the work that was going forward to formulate a new zoning law for this City, I was reminded of a friend I had met in Washington who had spent many years with various agencies in the federal government on a policy making level. He looked better than I had ever seen him look in the many years I had known him, and I inquired, "How come?" He replied that he was now with a department of the government engaged in a national program for the extermination of rodents, and he added happily, "It seems that everyone is against rats". I had the naive notion that the Commission would be in that fortunate non-controversial position, at least in advocating the replacement of the present zoning resolution. Apparently I was in some error. The somewhat understated but always reliable New York Times headline of yesterday was, "New Zoning Code Widely Debated". When the consultants' report was published more than a year ago, the Committee on Real Property Law of the Association of the Bar was assigned a task to prepare the studies which would be the basis for action by the Association on the proposed zoning law when it was formally submitted by the Planning Commission.

When these studies were completed, after a period of several months of intensive effort, we submitted to the Planning Commission a preliminary advisory opinion, suggesting various changes in the consultants' proposed zoning resolution. When the Commission submitted its resolution last December we were glad to note that our suggestions had been favorably

Hershman

considered by the Commission and incorporated in the Commission's resolution. The Committee on Real Property Law then reviewed the Commission's proposed zoning resolution and prepared a twenty-page report, analyzing deficiencies in form and substance in the existing zoning resolution, describing the background and scope of the proposed resolution, analyzing its use regulations, bulk controls and provisions for parking, and discussing with appropriate citation of judicial authority the legal problems involved and the provisions for permitting non-conforming uses or terminating non-conforming uses performance standards the effective date of the proposed resolution, and the validity of special permits. The major conclusions of the Committee were these:

We find that the present zoning resolution is outdated and does not adequately provide for the needs of The City of New York. Its basic failing is that it lacks a comprehensive concept of rational land use for the City as a whole. As a result it cannot furnish the proper zoning guidance for the mature but still dynamic city.

We further find that the present zoning resolution cannot be adequately modernized by piece-meal amendments. Two, we find that the basic structure of the proposed resolution is not subject to the foregoing objections. It incorporates modern zoning conceptions which have been adopted in numerous other cities. By and large, it provides a comprehensive, ingenious and flexible instrument to assist in guiding the future growth and development of the City.

Three, we believe that the proposed resolution, if it is not adopted, no other attempt to adopt comprehensive zoning is likely to be made for many years to come. The sustained effort and large expense that resulted in the proposed resolution would not be duplicated if the proposed resolution is defeated. Accordingly, we believe it is urgently necessary to support the proposed resolution now.

The Committee recommends the approval of the proposed resolution. This report of the Committee on Real Property Law was thereafter submitted to the governing board of the Association of the Bar, its Executive Committee. The Executive Committee unanimously approved the Real Property Law Committee's report and adopted the following resolution, as the action of the Association of the Bar:

"Be it resolved that in the opinion of this Association, the present Zoning Resolution of The City of New York is inadequate and should be replaced; and, be it further resolved, that the proposed Comprehensive Amendment of the Zoning Resolution of The City of New York prepared by the City Planning Commission, is a proper and suitable replacement. And be it further resolved, that this Association endorses the proposed resolution and recommends its adoption."

The report of the Committee on Real Property Law, thus approved by the Association, has been furnished to you and I would appreciate your making the report a part of your proceedings today, an extension of my remarks.\* I could not possibly improve on its succinct and authoritative character without trespassing unduly on your time. Zoning regulation is not a theoretical exercise in social planning. It has been with us a long enough time to become a significant branch of the law of building regulation, which goes back to the Babylonian law of more than four thousand years ago. It partakes of the science of engineering and architecture and their younger brother, city planning, the experience of real estate, the wisdom of judicial opinion and, I suppose, the art of politics. As with any branch of learning, the weight to be given any opinion on it must necessarily be based on the expertness and disinterestedness of those rendering the opinion.

I trust, therefore, you will not take it amiss if I point out in passing, and solely to qualify the witness, which is the lawyer's

\*Volume A, Document 1.

Hershman



phrase - that the opinion which is offered you in the form of a report and resolution of the Association of the Bar is based on the studies of lawyers comprising the Committee on Real Property Law, who participate as counsel in the most significant and complex transactions in the real estate field, housing and planning activities in this City. They are counsel to some of our largest financial institutions, branches of government, the real estate syndication industry, investors, builders, brokers, title companies, the sponsors of vast urban renewal projects and the average citizen - buying a home, leasing an apartment or office. In short, this is a group highly sophisticated in the matter in which we dealt. The report is typical of the arduous labors of the Bar Association committees and lawyers assembled applying their knowledge without fee or favor in the public interest and, as such, offered for your consideration today.

We find evolving judicial opinion which is not notorious in anticipating reforms, supporting the provisions of this proposed zoning resolution. We rely on the majority opinion of the Court of Appeals in the Harbison case as well as the philosophy embodied in the deservedly famous opinion of the United States Supreme Court in affirming the case.

Mr. Chairman and gentlemen, we say that two generations of zoning unrelated to city planning is quite enough. Thank you.

ROBERT W. DOWLING, President, Citizens Budget Commission

MR. DOWLING: Good morning, Mr. Chairman, gentlemen, my name is Robert Dowling, appearing on behalf of the Citizens Budget Commission, which states that the Commission has made a very careful analysis of the proposal and wishes to be recorded as favoring the resolution. I would like the privilege of a few remarks which may better state why we have come to this conclusion. First, we would like to compliment the Commission on the patience

the care, the courtesy shown in the preparation of the report and in the extension of time given for thorough consideration by all property owners and all citizens of the City. You have gone about this matter in a careful, considerate, most intelligent manner. There have been so many hearings that we are sure you now have a very fine concept of the majority opinion of our citizens.

Secondly, speaking particularly on the point that the Budget Commission must naturally address itself, that is, the tax structure of our City; over a billion dollars annually comes out of the assessments and taxes on real estate. It is very important that this basic tax structure be protected, that we guard against deterioration, that we open the avenues for wider and better development of our City, to maintain this tax structure in a healthy satisfactory condition. Another point that we wish to make is that through this means of the new resolution, we believe that the present existing facilities of the City will be made better use of, there will be a coordinated cooperative and constructive use of present City facilities and, naturally, better development of the future areas of our City.

Dowling

We believe that light and air is the best insurance policy. We think that the time has come for recognizing that efficiency does not come from engineering alone. An efficient City must be based on good planning and good engineering. But, alas, engineering alone cannot give us the result of a healthy, well-integrated and well-satisfied citizenry. It is our opinion that the welfare of all citizens, the climate of welfare, the good development of the individual is more important than any engineering.

We believe that your resolution has looked to the good, the prosperity, the health, and the enjoyment of all of our people. Therefore, the Citizens Budget Commission wishes to go on record as strongly favoring the resolution. I'd like the privilege of filing this report.\* Thank you very much, gentlemen.

\* Volume A, Document 2.

Dowling

IRVING I. ROSENBAUM

MR. ROSENBAUM: Mr. Chairman and members of the City Planning Commission, my name is Irving I. Rosenbaum. I have been engaged in real estate in the City of New York, principally in the Borough of Manhattan, close to half a century. I am an active member of the Real Estate Board of New York and serve on many of its committees, including arbitration, taxes and assessments, municipal affairs, and education. I have also been a guest lecturer for the Real Estate Board of New York for many years, teaching civics or the application of real estate to children attending our high schools - from that type of group to the so-called expert real estate broker, appraiser, and so forth - the last one being at the Hotel Commodore in November.

I am a member of the American Institute of Real Estate Appraisers, the New York State Society of Real Estate Appraisers, the National Association of the Real Estate Boards, and Builders and Owners Management Association. Since 1950, I've maintained offices at 501 Fifth Avenue and act as real estate consultant and appraiser to estates, trusts, investors, chain store companies, financial institutions, and so forth.

Prior to 1950 and for a period of 32 years I was associated with the Schulte interests, my last position being that of President of the Schulte Real Estate Company and Vice President of the Schulte Cigar Stores Company, in charge of real estate, also for affiliated companies such as Park & Tilford, Dunhill and Huyler's. While with the Schulte interests and subsequently thereto, I've been involved in hundreds of real estate transactions in the City, including many outstanding ones in the Wall Street area, midtown Manhattan, and the residential areas to the east and north of midtown.

In 1926 I pioneered in the development of First Avenue from 49th to 59th Streets, along Mitchell Place, Beckman Place, Sutton Place, 57th Street, and on East End Avenue from 79th to 86th Streets.

Quite naturally, I witnessed the growth of our City and have seen the shifts which have taken place. I've seen the benefits and detriments, witnessed good times and bad times, and during the last ten years witnessed the greatest prosperity that real estate ever enjoyed. I have witnessed the exodus of industrial, commercial and residential tenants, and I have also witnessed the influx and return, and I witnessed blight and the creation of slum areas, coming as a result of an action on the part of those guiding the affairs of the City and on the part of property owners and on the part of tenants. It was my privilege to be a member of a city planning committee of the Real Estate Board of New York when the last major revisions were proposed in 1937, and I heard quite a hullabaloo raised principally by the members of that committee, representing civic and property owners associations with cries of confiscation, regimentation, and "you can't do that to us".

You will no doubt recall that such proposals disclosed a slight reduction of bulk and land coverage. No impairment came to real estate values but rather large increment. I believe it was Mr. Thurman Lee, then President of the Drydock Savings Bank and now Chairman of its Board, who headed the Committee. Mr. Clark Daly, President of the Alliance Realty Company, was Vice Chairman. Mr. Lee, Mr. Daly and I pointed out that we represented property owners, mortgagees and so forth, which would continue long after we have passed away. And we urged that Committee to go along with the proposal. What we sought was not a feast for a day and a famine for years, and we felt the change would bring greater income stability for those that we represented and other betterments to real estate and to our City. Property owners, merchants, builders, architects, engineers, real estate men, and tenants of any kind and description over the years have sought comprehensive planning and recodification of our zoning laws. And they have been urging the City of New York to take the required step.

Now, there comes before us a comprehensive master plan which provides flexible controls regulating bulk, insuring access of light and air, controls densities, regulates locations of industry, creates residential areas which will permit mixed building types instead of the monotony of single-type buildings and other benefits - all of which in no small measure would bring greater efficiency, a cleaner city, and more stability. And we find objections on the part of real estate brokers, architects and owners. They no doubt objected to zoning variations in the past and they no doubt objected to slum clearance and urban renewal, and the aid granted by the government, state and city for such purposes. But, today, I'm certain there are no real estate men who don't seek more of the renewal projects and the elimination of slums for the benefits that accrue to the City, to commerce and industry and even to them.

Perhaps, in a broker's sense, what is proposed here might be termed a master or comprehensive urban renewal plan for the City of New York and its five boroughs. It seems to me that if the recommendations were adopted and I hope such will be the case, then there will be some impairment of land values for a very short time but after such a short time values would tend to rise.

From the time the City Planning Commission made its first proposal in February of last year, and more recently, its revised code. I haven't seen any cessation of interest in the acquisition of real estate in this City. And, surely, those acquiring land, or land in building, have been aware of the proposal. I venture the opinion that if the recommendations of the City Planning Commission are adopted, such interest will continue. What has been proposed by the Commission may not be the perfect plan, yet, it is a good plan and may require some minor modifications which I'm certain can be effected. But, in no event should it be destroyed, with the need to start all over again for it is something an overwhelming majority of our City have been awaiting for a long time.

Rosenbaum

We will hear much today of investors and the stock market interested in growth stocks. What is proposed by the City Planning Commission would put real estate within that category, and it would afford those engaged in real estate, including owners, builders, architects, and so forth, better growth in the future, better stabilization of income, a better city, eliminate the risk with respect to capital investments coming about through economic obsolescence and transition. It would also bring betterment to commerce and industry, department stores, merchants, and all who live, work, or visit our City. Thank you.

CHAIRMAN FELT: Is Mr. Richard C. Murphy present?

RICHARD C. MURPHY

MR. MURPHY: My name is Richard C. Murphy, 535 Fifth Avenue, New York 17. I represent the Association of Old Forest Hills. We think that the proposed zoning regulations should be adopted and should be improved in a very small respect for this reason. I prepared a little memorandum and in the back page I put a little map which shows the area with which we are primarily concerned. You will see from that, down in the right-hand corner in yellow, a public school. And right along-side the public school, in black, is a proposed private hospital. All of the rest of the area that's not colored is filled with detached one-family homes. Now, right above this black spot on the map there is vacant land, on which there could be five more hospitals built unless the proposed regulations are changed.

The reason we take this stand is that we fought hard and long to become a "G" Zone area. We started in 1931 - at that time it was an "F" Zone. Then later on, in 1941, we came down before this Board again and asked you to put in a "G" Zone, which this Commission did. Now, an attempt is being made to break down this "G" Zone. We who own property in this area have restrictive covenants in our deeds. We cannot build

Rosenbaum, Murphy

anything but one-family homes. The Cord Meyer Development Company, which was the owner of all this tract at one time put these restrictive covenants in the deeds but they reserved to themselves the right to modify these restrictions so that they could do as they please.

Now, a number of doctors have gotten together and they have leased this land marked in black, and they call themselves the Broadview Hospital and it's well named because it's on the side of a hill. It's overlooking the Grand Central Parkway and the Fresh Meadow Park. It is a broad view, a beautiful view; and if they are permitted to come in now and build a hospital, I daresay there will be others following suit right along the Parkway on this vacant land. Now we know that there is a real estate agent, or broker, who is advertising to get doctors and dentists to build a medical center in the heart of Forest Hills, right close to transportation. Just where they want to build this medical center, we don't know, but if they were to have only one hospital, the traffic would be unbearable - hearses running back and forth, ambulances running back and forth, and the patients and the doctors running back and forth.

Now, we ask that the present resolution be amended, and that the proposed resolution be amended so as to protect us. Now, there are only a small number of people involved. There are only 18 "G" Zones in the whole City of New York. According to the proposed amendment, they are designated as "R-1", which I take it are "G" Zones. There are only 18 places where people can live in their own private homes in detached dwellings without the encroachment of business. Now, a private hospital is business.

CHAIRMAN FELT: Do I understand correctly that you are primarily opposed to the permission of private hospitals in R-1 and R-2 Districts?

MR. MURPHY: Yes, sir.

Murphy



CHAIRMAN FELT: That is the basis of your opposition?

MR. MURPHY: Yes, sir, that is the basis - because it's business. They are going into this for business. They are not only taking their fees from the patients but they are putting their patients into their hospital where they are going to get some more revenue from them. Now, it would be very easy to overcome this, and I believe the Commission intends that the R-1 District and the G District be for one-family detached homes without the encroachment of business.

As far as hospitals are concerned, we have twenty hospitals within two to twelve minutes from the heart of our area. We don't need any hospitals. Now, the same thing that applies to us, I believe, applies to other "G" zones in R-1 Districts and, in my opinion, this could be overcome very easily. In 1913, when the first report came into the Board of Estimate on the Zoning Resolution, it mentioned hospitals, but at that time I have been unable to find that there was anything like a private hospital. There were voluntary hospitals and charitable hospitals, no private hospitals. That's something new that came in. And in 1916 - I've looked through the minutes of the Board of Estimate - and I don't find any reference to private hospitals. They're just designated "hospitals". And, in the Cohen case, in 58, New York Supplement, the court says, the word, "hospitals," at least in popular usage, ordinarily denotes a charitable institution. That's what I believe the Planning Commission had in its mind in 1916, when they provided that a hospital might be built in a residential area and could be built in a "G" Zone area.

Now, it would be simple enough, and I think it would carry out the thought of the Planning Commission, to amend the present regulations, Article II, Section 3, Subdivision 6, should be amended to read "Hospitals, except private hospitals operated for profit, and except animal hospitals."

Now, you can see that if this amendment was just "hospitals" and then later on there was a provision made for sanitariums and medical centers - that was eliminated - and then the Commission decided they wouldn't let them build animal hospitals in there. I'm not saying that private hospitals are animal hospitals but the same should apply.

And Article IV, Section 16 B, G Districts, should be amended to read as follows: "In a G District, no building shall be erected or altered other than for the occupancy of a single family." Presently, it says, "no dwelling". But if you will say, "no building", then we will have the desired protection.

I have prepared this little memorandum and I am not going to take up your time this morning. I know there are many other speakers, but I do hope that the members of the Commission will read it and will make the necessary amendments. I'd like to say one thing further. In the proposed resolution - I'm just saying this for the benefit of the engineers - Map 14 A - the lines are incorrectly drawn. You're really giving us more than we're entitled to. The line runs up to the middle of Continental Avenue, which is not the fact. The amendment made in 1941 runs a hundred feet to the east of Continental Avenue up to 58th Road and then it comes out through the middle of Continental Avenue up to 66th Road.

CHAIRMAN FELT: I am going to ask Mr. Ginsberg to check that.

MR. GINSBERG: We are familiar with that.

CHAIRMAN FELT: Our staff is familiar with that but if you wish to speak further on Wednesday, you may.

MR. MURPHY: Thank you very much. Well, that sums up what we have in mind and we believe it is not only for our protection but for the protection of everyone who lives in a G Area which will later be an R-1.

MURPHY

VICE CHAIRMAN BLOUSTEIN: Mr. Chairman, I want to read a telegram to be made part of the record. The telegram is addressed to the Commission. "I regret that previous engagement makes it impossible for me to attend your hearing, but wish to put on record the following: 'All real estate men owe it to themselves and their City to support your proposed modern zoning plan'. Signed, William Zeckendorf, President of Webb and Knapp, Inc., and member of the Committee on Modern Zoning."

CHAIRMAN FELT: So that those of you who are to speak will have the order before you: Mr. Lippe, Mr. Bergier, Mr. Scheuer, and Mr. Lindenbaum.

HENRY J. LIPPE

MR. LIPPE: Gentlemen of the Commission, my name is Henry J. Lippe and I represent the City Island Civic Association. We wish to go on record that we are in wholehearted accordance with the zoning that is proposed today. I wish to say that Mr. Barrera seems to think there was some sort of sneaky business of trying to get things done by the zoning board. Now, we have a C-3 on City Island, which was very tough zoning. We went down to the zoning board and asked what could be done about it, and you, sir, gave us two men who stayed with us for months. We went from house to house by using girl scouts and boy scouts, by using the method of the churches, synagogues, polling all the organizations on the Island and filling our halls with people who now only come to say what we have to say - at different meetings like the other day in the Bronx - people from the different service organizations who do not speak for us. Their only interest is "How do we know you represent all these people." Well, they hired a hall. We'll fill it. They just have to come up there to find out.

I also wish to state that under this zoning we had under C-3. It came under a very bad heading, they told me, of "Amusement". Now, City Island is composed of people who work in the shipyards, the sail lofts, the machine shops, the garages, and the small merchants on the Island. These people live and work there and also own homes. Their economic situation is that they work in these yards, the women mostly work in the sail lofts for extra money to pay the mortgage. The homes are small ones. I do not represent a big contingent of people in The City of New York. We are very, very small. We have worked out this problem for ourselves and we are very happy with it. Due to the efforts of Mr. Jack Smith and Mr. Friedman of your board we had very many meetings, and these people of your board came up and we walked through the streets of City Island and did all the things that were supposed to be done by the people who own these individual houses. Now, it isn't done with mirrors. People in City Island are not easy to get along with within themselves. "We don't get ulcers - we give them." That's their method of talking here. You know that you're up against it the minute you say something or try to get them to do something - they're agin it. It was a very tough job to get these people assembled to say what they wanted, and we did that. We would never have been able to do it without the methods with which you people helped us with.

We are for it 100%. We came down to this meeting and we didn't know what "text" meant. We heard all the other men read page after page. I can't read well. I can't even spell well. I was surprised that these people did not speak for the individual homeowner like I do. Each one of those persons have sent us here with a pat on the back to tell you the exact thing that I am telling you. We are for it.

Lippe

We think this will be the biggest boom we have ever had. We are going to have problems. Four more cars on City Island on a Sunday in the summer time will sink this Island. We know that traffic is a terrible problem. Mr. Wiley doesn't give us any help. We sent ream after ream of letters to him. We're trying to get diagonal parking on one side of the street. The men come up, they work on their boats, they go fishing, and they leave their cars in the middle of the street. We have measured the streets with the cars parked on both sides of the streets and I also went up and measured the fire engines. This is all in testimony, with affidavits, and Mr. Wiley doesn't seem to think there are streets there. There are, but they are very narrow. The fire engines are very wide. Our homes are wood. Most of the people are in fear and trepidation of a breeze coming up when there is a fire started.

With this new zoning, the house on the 25-foot lot that's backed into the other fellow's back yard, that has been going on within the last few years, would be done away with, and there would be a much healthier, better way of living. We aren't just people who work at the scene. Across the street from where we live - when those people, those yards, those sail lofts and those machine shops, those people don't pack up and sell their house and move out. They go home. They stay there. They go fishing. The yard picks up a job or two. They call you to work and you go to work. This is the way it has been done for a hundred years or more - so I'm told. There is no way of us wanting anything different. Our method and our way of life is the one that we are looking forward to through you, sir, to keep it just the way it is. Thank you very much, Mr. Chairman.

VICE CHAIRMAN: You didn't find any secrecy in this, did you?

MR. LIPPE: No, no. When we went down to your office. I had maps made and had them blown up. We sat down, I put the maps in front of all the men who we talked to and asked them about that particular zoning. I went around the table and pointed it out so they would know what piece of property we were talking about. We were in fear that something might be done to a piece of property that shouldn't have been done. We didn't know what shouldn't have been done. We had no idea what it was all about. Mr. Smith and Mr. Friedman came up and they spent a terrific amount of time. They said, "Can you get people in a hall?" We said we would.

VICE CHAIRMAN BLOUSTEIN: How many meetings did you have with us?

MR. LIPPE: Oh, I would say they came up five times and we went down there many, many times. We didn't see the same people all the time but the thing we were asking about was told us.

VICE CHAIRMAN BLOUSTEIN; That contradicts what Mr. Barrera said - that this was conceived in secrecy.

MR. LIPPE: I can't see how he can say a thing like that because if there is anybody that knows nothing about anything in zoning, we do. (Laughter) Mr. Haupner is a retired fireman. I'm a retired businessman. Mrs. Schmidt is a housewife. We are all grandparents. All of our children live on the Island. We have an aggregation of four or five houses. We all have homes on the Island. They are all small homes. We're not big. We came down at 8 o'clock in the morning....

VICE CHAIRMAN BLOUSTEIN: I merely took this occasion, Mr. Lippe, merely to point this out, and for the record I want to make it clear -- that this practice has existed in the past year -- that we've gone into every single borough and did the very thing that Mr. Lippe has just described. I'm very grateful to you, Mr. Lippe, for your cooperation. The hall has been quite full.

Lippe, Bloustein

MR. LIPPE: Well, the thing that bothers me the most is this: that these service organizations don't represent us - I wish to put that on the record. They don't represent us at all. When a man gets up and says he is for the things he said he is for up in the Bronx. I'm not talking about Mr. Barrera. He just doesn't make sense. Maybe in Manhattan he does but for us he doesn't.

CHAIRMAN FELT: Mr. Lippe, I don't want to cut you short, but I'd rather not have you make any derogatory remarks about any individual.

MR. LIPPE: I don't know when to stop - you just tell me.

CHAIRMAN FELT: Mr. Lippe, I think you've made your point clear. Thank you very much. Please excuse me. I just wanted to make sure there were no recriminations insofar as other speakers were concerned.

ARNOLD BERGIER

MR. BERGIER: My name is Arnold Bergier. I represent an organization called "Save The Village" - a most marvelous organization. "Save The Village" is comprised of tenants and landlords and people in real estate and poets and sculptors and painters and people in the shoe business, and in one business or another. Really, I would say, we are quite a cross-section of New York in ourselves and I hope we are here to stay. Our main purpose has been in the past six months to acquaint the entire community with the danger to our community resulting from hyperactivity of certain real estate interests in Greenwich Village. The place has become rapidly populated with some of the barracks-like structures that are beginning to destroy our neighborhood.

Now, we've come here this morning to give our wholehearted support to the proposed zoning resolution. I've been sitting back in the room

listening to the remarks made by gentlemen who purport to represent the real estate interests in the City. I find myself a little shocked, first of all by the methods that were used to describe the nature of their complaint. I believe the gentleman has said that it is 85 days that this resolution has been public knowledge. I note, by the way, a critical analysis put out by this same organization came out at least 90 days ahead of that, and I'm beginning to wonder where the dickens they got their information. Also, inside the critical analysis they mentioned that the zoning proposal was first available for discussion, I believe, in March of 1959. I don't know whether this is falsehood or confusion, but all I can say is that if the residents of the City of New York must have their destiny in the hands of people who have to either resort to falsehood or are so terribly confused -- God help us all.

I have been asked to deliver messages to you from a number of different people and organizations. I have here a number of letters which I would request, if you would be kind enough to do so, to be placed in the record, and one poem that was written which I would ask your indulgence in reading. It's a very short one. It's written by a delightful little lady who doesn't claim to have much knowledge of the intricacies of zoning but she has an idea that what we want here is a cleaner, brighter and happier city and so she has taken the liberty to express it this way:

Title: The People's Plea. "O City Fathers, hear our plea, that we may ever see a tree amid this maze of masonry. That we may smell the air brand new instead of coming through a flu, and feel the rays of sunshine bright instead of turning on the light. That we may view the open sky, not always meeting buildings high, and place along the New York shore our mighty industries to roar. Then keep a little spot, we pray, for children to enjoy their play. And now that we have had our say, we



hope your zoning goes this way." Mildred Miller.

I've also been asked by Assemblyman Passannante to convey to the gentlemen of the Planning Commission his wholehearted support of the Zoning Resolution. I also believe that Senator McNeil Mitchell will also convey his support if he has not already done so.

We're sort of a clearing house, as I said before, for a vast cross section of folks in our community. I think the folks in our community are wholeheartedly behind you. I had planned to take a few healthy cracks at some of the people who were opposing the Resolution for reason of self-interest and I've decided, really, not to do so because to me nothing is more pathetic than people who allow a few thousand dollars to stand between themselves and the love for their community.

We are all with you, and if there is anything we may do to aid you in further progress, if we may be of any value in consultation ... We wish you luck, and God-speed.

CHAIRMAN FELT: Thank you, Mr. Bergier. Is Mr. Scheuer present? Mr. Scheuer, then Mr. Lindenbaum, and then Mr. Abramovitz.

JAMES H. SCHEUER

MR. SCHEUER: Chairman Felt, members of the City Planning Commission, my name is James Scheuer, and I'm President of the Citizens' Housing and Planning Council of New York City. I am also an active urban redeveloper in cities from San Juan, Puerto Rico, to San Francisco, California - a half dozen major American cities. Both as a redeveloper and as one active in the civic side of housing and planning, I am acutely

Bergier, Scheuer

aware of zoning laws, not only in this City but in other cities.

As a native New Yorker, who instinctively believes that New York always has the best of everything and should have, I have been astonished to find that other cities have very much more up-to-date, intelligent and progressive zoning laws than has New York. Other cities have zoning laws which protect the city from over-crowding, over-congestion, loss of light and air, and the concentration of development in a few areas to the detriment of the city as a whole. Other cities have zoning laws which permit the exercise of imagination by the builder and the designer, and avoid imposing wearying repetition of the same building pattern through archaic building and zoning regulations.

I believe that in the end good zoning like good architecture is economical, not expensive. For this reason and others, I and the Citizens' Housing and Planning Council heartily endorse the new Zoning Resolution proposed by the New York City Planning Commission, and I would like to submit for the record a detailed study which Citizens' Housing and Planning Council has made of the proposed Zoning Resolution.

I believe especially in the principle of controlling the density of residential development. Conscientious builders actually avoid overcrowding their projects because they take a long-range view of the investment they have made. These zoning controls will prevent speculative builders who are interested only in a quick dollar from destroying the neighborhoods and reducing the value of what the good builders are doing and will do around them.

Scheuer

In the Title I Urban Renewal program, the cities, states and the federal government join hands in guiding the long-range development of our neighborhoods, our boroughs and our cities. Why then cannot we plan for the total growth of a city in the same fashion in which we plan for spot urban renewal projects? In the long run it is good business for the builder to take the risk of a slightly increased rental in order to protect the neighborhood in which he is building against the deterioration which follows construction by those who exploit the present weakness of the zoning laws of New York to the full. Good zoning seems to me good business for the builder, particularly for the builder who cares about the people who will live in his structures, and the community in which he makes his livelihood.

It is also without any question good business for the community and for the governmental units which must support new communities and which must live off the tax base these new communities will create. We have seen in the post-war years the bloody carnage which unplanned, unzoned, un-thought-out development has created in Queens. Today, we can look back in anguish in examining the fashion in which raw land -- that most precious of all our natural resources -- close-in raw land, has been ground in the dust and has spawned sanitized slums of tomorrow without any semblance of adequate community facilities, recreational, cultural, educational facilities, and that great resource - plain open space for people to enjoy. We have an opportunity in the development of Staten Island to avoid the wreckage which unplanned, unthought-out, development has perpetrated in the Borough of Queens.

This Zoning Resolution is one way of facing the challenge of the future and the development of the remaining underdeveloped portions of our City forthrightly, and with the intelligence which we should bring to bear on these problems. I suggest that planned development of an interesting, heterogenous community can take place. It is taking place now in a magnificent and epoch-making prototype on the west side of Manhattan Island -- the development from 87th Street to 97th Street is planned but will be interesting and stimulating and will avoid the deadening monotony of some projects. It will give a sound economic and social basis to the development which is taking place there. It combines rehabilitation with demolition of structures which cannot and will not be saved and the erection of fine new structures. It provides family-sized apartments instead of just a concentration of the very small units for single people and perhaps, at the most, married couples.

It provides for all income groups, some public housing, some middle-income housing for that great stabilizing factor in our society - the middle-income family, and some upper-income Title I housing, too.

I think we are going to prove in New York that planned development can work, and I suggest to you that if it makes good business for the federal government and the cities to plan for urban renewal projects within the confines of a project area, it makes just as good, if not better sense to plan for the development of the City as a whole.

This is an opportunity that we haven't received very often in New York. It comes once in a quarter of a century or half a century, and once it's missed, the engines of development are triggered nevertheless,

and it's difficult, if not impossible, to get a second turn at bat. The past lies behind us - a challenge that we failed to meet in Queens. The future lies ahead of us in Staten Island and also in parts of New York City, Manhattan island, particularly, where burgeoning development is going on right now. We are creating now the kind of a city we will be living in, our children will be living in, for the next half a century.

We can guide the growth of this City; we have the brains and the talent and the imagination to do it. We hope desperately that this unique opportunity that we have today, with the fine thinking that has gone into this new Zoning Resolution, will not be passed up. Thank you very much.

ABRAHAM M. LINDENBAUM

MR. LINDENBAUM: Mr. Chairman, Commissioners, my name is Abraham M. Lindenbaum. I am an attorney with offices at 16 Court Street in the Borough of Brooklyn. Before I go into my prepared text, I would like to spend a moment with regard to what the previous speakers have discussed here and also with regard to the questions put to the previous speaker by Commissioner Bloustein. Those of us who are familiar with Mr. Barrera and have known him over the course of years, and I'm sure most of you have met him and know him. His honesty and sincerity should not be questioned. He never said that he was not given an opportunity to discuss the Resolution, and I will read from his prepared statement exactly what he did say: "Why was it necessary to withhold from everyone all information as to the contents of this proposal until it was in complete printed form"? He never said anything about the

opportunity given to him or anybody else after the resolution was printed. I, for one, who appear here today on behalf of the Associated Builders of Greater New York ....

VICE CHAIRMAN BLOUSTEIN: You didn't read the sentence immediately preceding the one you read. Let me read it to you: "We think it is time for this Commission publicly to explain why this proposed new zoning law was prepared in absolute secrecy".

MR. LINDENBAUM: That is exactly what he means -- that it was prepared originally in absolute secrecy. Until this printed form came out, was any organization or anybody invited to discuss it with the preparers?

VICE CHAIRMAN BLOUSTEIN: You heard Mr. Lippe say that he had been invited, and I know that you were in the audience several times when either the Chairman or I spoke to groups, and invitations were directed to all individuals to come to our offices, meet with us and discuss any mutual problems.

MR. LINDENBAUM: This is after the form, Commissioner Bloustein. I am talking about up to the time of the printed form.

CHAIRMAN FELT: This isn't intended as any debate but I would like to make a statement which I am sure you will agree with and we will let the record go at that, and that is, when the Voorhees, Walker, Smith & Smith resolution was presented to the public over a year ago, is that correct, that I and other members of the Commission met with hundreds of groups and pleaded with them to come and meet with us, to give us their advice and give us their suggestions -- is that a correct statement?

MR. LINDENBAUM: That's a correct statement, Mr. Felt, to the extent that I and my group met with you and your group on numerous occasions. There is no question about that.

CHAIRMAN FELT: I am glad you state that because I think the impression might have been that that was not the case.

MR. LINDENBAUM: That is not the impression that Mr. Barrera wanted to leave, because he had discussions with you. Isn't that so, Mr. Felt?

CHAIRMAN FELT: Certainly, and Mr. Barrera, in my opinion, is a person of the highest integrity, and you know how I feel about him. I just wanted to have it understood by everyone here that for a period now of over one year, even though our printed resolution has only been made public for only three months, for a period of nine months before that I pleaded with groups and asked groups to meet with me and give me their views and give me their constructive criticism. There is no question about that. Will you kindly proceed, Mr. Lindenbaum?

MR. LINDENBAUM: The Association which I represent, the members of which have constructed hundreds of millions of dollars of multi-family houses in the metropolitan area, especially in the boroughs of Brooklyn and Queens. This Association, at a special meeting, called for this specific purpose, unanimously resolved to oppose the proposed change as it appears in your new resolution completely. It is the feeling of this Association that it would be a serious error on the part of this Commission to adopt the resolution it proposes here today. There is no question that this proposal involves the welfare of every person in The City of New York,

be he a tenant, property owner, businessman, construction trade worker, architect, builder, or others too numerous to mention. I am sure previous speakers have sufficiently outlined the objections which we have. I would just wish to discuss the problems that will arise as far as the builder, per se, is concerned. If this resolution were adopted it would be practically impossible for any multi-family apartment houses to be built. I know the feeling of this Commission in saying that this was the thought when the original Zoning Resolution was passed in The City of New York, and yet then there was an enormous amount of building, but the economic factor and the amount of available land for such construction was far different in those days than it is today. In building the four important elements are as follows: land, finance, construction and renting. The cost of land would be too expensive for the amount of coverage permitted and to economically build, as will be shown by examples hereinafter set forth. The money market which is very tight today, would become even worse and it would be impossible to secure proper financing, regardless of what rate of interest would be offered. Construction would be on a competitive basis, and with the labor shortage which there is today and with the quantity of supplies and materials necessary, the economic factor or supply and demand would bring the cost of material and labor to such heights that it would be practically unsound. If one were fortunate to secure the land, financing and material, the high cost of same would necessitate a very high rental which would be so high as to price them out of the market.

This resolution, therefore, if passed, will make a City for the very rich or for those eligible for public housing. It will further  
Lindenbaum



drive the middle-income group out of the City at a time when everyone is working on plans to keep them here. This organization has previously submitted to this Commission eleven sites showing the present and proposed use of sites in six-story elevator apartment houses for which purposes these premises were purchased. For reference I will allude to only four: two in the Borough of Queens and two in the Borough of Brooklyn. The first one - premises located at 67th Avenue and 102nd Street and Yellowstone Boulevard, in the very heart of the Forest Hills section of Queens. This is an interior lot which is zoned D, Height 1, (proposed R-7). The size of the plot is 38,000 square feet. The present zoning permits a ground area of 20,900 square feet, floor area of 123,400 square feet, 120 apartments containing 320 rooms exclusive of kitchens. The proposed zoning will permit a ground area of 17,200 square feet and a floor area of 103,200 square feet, or 90 apartments containing 260 rooms. There is a reduction there of over 40%.

The second premises are in the Elmhurst section of Queens, 55th Avenue, 56th Avenue, between Queens Boulevard and Justice Avenue. This is a through lot which is zoned C, Height 1, (proposed R-5). The proposal is for a six-story elevator house, present ground zoning is for 81,750 square feet, floor area 490,500 square feet, 470 apartments containing 1250 rooms exclusive of kitchens. The proposed zoning will permit a ground area of 27,000, a floor area of 162,000 square feet, and 160 apartments instead of 470.

In Brooklyn, in the Flatbush area, Snyder Avenue between Nostrand and Rogers Avenue, there is an interior lot which is zoned C, Height  $1\frac{1}{4}$ .

proposed R-6, and there are 112 families at the present time -- in the proposed zoning, 56 families.

Emmons Avenue -- this is in the new section of Sheepshead Bay between Brigham Street and Knapp Street. This is a block front lot which is zoned D, Height 1 (proposed R-5). The size of the plot is 50,000 square feet. With the present zoning we are permitted 139 apartments; with the proposed zoning we will be permitted only 54 apartments - about a third. These examples prove that there is a loss of occupancy in some cases of over fifty percent. The rental necessary to pay for lesser occupancy would make it impossible for renting and, therefore, impossible to construct. Of course, you gentlemen have advanced the argument that more apartments can be built if the land were used for taller than six-story structures. This is a fallacy because in constructing more than six stories the same would have to be fireproofed and the additional cost of construction from six-story construction to fire-proof construction is so high that the increase that would have to be charged for rental would be the same as hereinabove stated and impractical for renting.

We realize that there are changes necessary in zoning especially in the highly congested areas. We feel that the proposed zoning plan has any number of innovations which can be profitably adopted in a revision of the present existing plan. It is our opinion that there isn't any need for the extensive proposal as presented by this Board and a modification of the present existing plan would be sufficient to take care of the needed changes. This plan, as proposed, can only mean higher rents, lower taxes, and a destruction of the City's credit.

Lindenbaum

It is therefore respectfully requested that the Commission not pass this resolution in its present form, but that an extensive study be made of this subject with the help of the architects, builders, unions, real estate organizations, and other groups who are vitally interested in this matter, so that all can agree with that which is not best for a few people but for all the people of the City of New York. Thank you, Mr. Chairman.

CHAIRMAN FELL: Mr. Abramovitz, Mr. Lescaze, and Mr. Marcus.

MAX ABRAMOVITZ: My name is Max Abramovitz of the firm of Harrison & Abramovitz, architects in the City here. As a practicing architect in this City for the past twenty years and long interested in good building and the best inter-relation of buildings to each other to contribute to acceptable space and density conditions for our City dwellers and workers, and aware of its real estate problems as well, I and my colleagues have been earnestly concerned for many years about the need of balance between open space, land utilization, and density, to avoid indiscriminate and inconsiderate exploitation of light and air without consideration of the impact on the neighboring buildings, neighborhood, pedestrians and traffic.

This is in part due to our antiquated standards, which have not been updated to modern forward trends of building groups, neighborhoods, open space needs, and the effect of buildings of all types upon each other. We are fortunate that we can have for consideration at this time a Zoning Resolution based on a neighborhood and overall City philosophy as opposed to the type of zoning we have now, which is on an individualistic

basis without direction or thought of simple kinds of reasonable and sensible city growth and inter-relationships.

The proposed resolution presents great possibilities for our next growth phase on a qualitative basis, wherein our City services can be more adequately planned, our individual buildings better related to balanced neighborhoods and to large-scale developments, our parking facilities can be more logically related to street capacities and density loads, and our use districts properly analyzed to the problems of the coming decades; so that our land, building and City values can in the foreseeable future not deteriorate as they have in certain areas and lead to the need of major surgical overhaul as is evident in many sections of our City today.

Our real estate owners have a responsibility to our City because they affect our daily lives, and the atmosphere we live and work in, and they must help us adjust values, not to what the traffic--money-wise--will bear, based on circumstances as they are today, but on what is good for the City. We have such thoughtful real estate men in this City. We must encourage them more and control those who wish to exploit antiquated zoning values.

Built-in bonus aspects in the Zoning Resolution is an interesting step towards good planning with æsthetic values of buildings and open areas in view. These values are dear to all of us for, when achieved, they are acclaimed and enjoyed by all - from the ever-observant New York taxi driver to the visiting tourist.

The conscientious architects of this City, who look upon the City as their own home, have for many years been interested in a revision of zoning conditions to control the sometimes unscrupulous and other times unknowing individuals who use the outworn cliches of uncontrolled competition to justify uses that hurt our City.

We have been able from time to time to prevail on conscientious clients to produce buildings and building groups that are considerate of their neighbors, but we need the aid of the proposed Zoning Resolution to help us spread this practice further and encourage others as its potential is fully understood.

True - progress, unfortunately, imposes hardships for the good of the whole, but even the gentlemen of the opposition do not hesitate to impose hardship on tenants displaced to build their buildings. Yet, there is a middle ground of good, and this proposed resolution is in that direction with built-in procedures to lessen honest and unusual hardships where they occur. Time will cause proper adjustments, as it has in the past, and men of good will will accept the adjustments just as they adjust to the changes in interest rates and the money market.

I heartily endorse this Zoning Resolution as a move for a better balanced City, which will help our planners to search for thoughtful solutions for traffic, municipal services, policing services, recreational services, and general good-neighborhood space relationships. Thank you.

CHAIRMAN FELT: Mr. Lescaze, Mr. Marcus, and Mr. Siegel.

Abramovitz

WILLIAM LESCAZE

MR. LESCAZE: Mr. Chairman, members of the Planning Commission, my name is William Lescaze. I am here as an architect who has practiced in New York for the past thirty-seven years - which is thirteen more than my friend Max. I am offering this statement in favor of the proposed amendment of the Zoning Resolution. While not perfect in all of its aspects, it constitutes a tremendous step forward in the right direction. It is a much more intelligent and much more flexible instrument than the present Zoning Resolution with which to guide the growth of our beloved City. I hope that efforts will now be made to bring about a better relationship between the Multiple Dwelling Law and the Zoning Resolution. I strongly urge that several of the recommendations made in the excellent analysis of the Zoning Resolution prepared by the New York Chapter of the American Institute of Architects be given serious consideration by the City Planning Commission.

For instance, the recommendation that the increase in the plaza bonus and in the arcade bonus should be applied to the "effective lot area" rather than to the floor area ratio. The idea of a bonus for plazas and arcades is excellent but the Chapter's suggestion which makes it much more workable should be accepted.

Another instance is that their recommendation regarding increase in tower coverage for the smaller lots up to 20,000 feet be accepted since it is a sensible encouragement to the investment builder.

In regard to permissible bulk, I have verified that the

proposed Zoning Resolution would permit about the same bulk for the office building which I designed at 711 Third Avenue a few years ago as the present Resolution does. I have further examined evidence that the great project of Grand Central City could be built just as well under the proposed Zoning Resolution as under the present one, regardless of inaccurate statements to the contrary, which have been widely publicized.

I therefore recommend wholeheartedly that the proposed amendment of the Zoning Resolution be adopted. Thank you.

ALAN S. MARCUS

MR. MARCUS: Commissioner Felt and gentlemen: I'm Alan S. Marcus speaking in favor of the proposed Zoning Resolution for the Manhattan Land Owners Association. Greenwich Village homeowners, like most landowners, have the same interests as any property owners who conduct business or live in their own buildings. It is these property owners who comprise the membership of our Association. It is their interest, not only to make a profit, but also to maintain harmony by proper upkeep of buildings and grounds, and cordial relationships with their tenants and neighbors. These owners are naturally concerned with their community's welfare because they are part of their community. They have long-term interests in their neighborhood. They endorse wholeheartedly the text of the City Planning Commission's Proposed Zoning Resolution which, among other fine contributions, would protect the character of a neighborhood by preventing sudden changes and overcrowding. Property values then will be safer. Human values will be

respected. There is another type of owner who takes an opposing view. He's not interested in the neighborhood; he's only interested in a quick buck. This operator builds with the idea of reselling before the cracks begin to show. He profits and gets out; and then the new owners, their tenants, and eventually the City, are saddled with a slum.

Apparently, there is a controlling group within the Real Estate Board who feels they can ignore human values in opposing the Zoning Resolution.

It was, I believe, Winston Churchill who said, "We shape our buildings, and then they shape us." The operator shapes buildings without regard to human needs, taking advantage of archaic zoning and building codes. The legacy of that speculator is an economic rat hole for the new owner. The barracks-like construction and paper-thin walls destroy privacy and individuality. It robs tenants of their human dignity. The lack of air and light creates a dismal and unhealthy atmosphere which makes these people, as are their dwellings, cold, dull, disinterested, irresponsible. It creates breeding-grounds for mental and criminal problems. Ultimately, it is the entire City that pays - with lower taxes collected on rundown property, increasing welfare rolls, and prison expenses. Property owners are hit with a higher tax rate. The Real Estate Board shows no more concern with, or understanding of, the future of New York than their predecessors showed in 1916 when they predicted dire consequences for the City.

Today, a few speculators are claiming that industry will move out of New York if the new zoning passes. The fact is that New York's



growth has been slower than many other cities in the past ten years under the present zoning laws. Chaotic zoning conditions have stifled progress. A city of 8,000,000 people requires up-to-date planning if it is to flourish economically. In 1960, we are more than half way towards the 21st Century while the Real Estate Board, still biting and kicking from out of the 19th Century, is trying to drag our City backwards. Thank goodness, they are a small minority.

We are grateful to Commissioner Felt, the members of the Planning Commission, and the experts who have made sense and order out of a complex and chaotic zoning problem. As Mayor Wagner had an important hand in starting the zoning research, we hope that he and the Board of Estimate will soon finish the job by making it law. Thank you.

HAROLD SIEGEL

HAROLD SIEGEL: My name is Harold Siegel. I am Executive Director of the United Parents Associations of New York. Mr. Chairman, members of the Commission, we are wholeheartedly in support of this proposed Zoning Resolution. As a matter of fact, the more I have been going into it, the more I wonder why it has been so late. Certainly, this hearing should have been held fifteen years ago.

Basically, as we see it, the issue turns on what the City should be. Is it to be a place where people can live, work, do business, bring up their families and their children with some decency, with some comfort? Or is to be primarily a place where a few, the very few,

have a legal right to reap unlimited profits at the expense of everyone else? Or is it to be the kind of a place - The City of New York - where people with families want to stay and will remain?

I doubt that there has ever been a zoning resolution which was not greeted by Cassandras and prophecies of doom. This is in the nature of things in zoning resolutions, and I believe it bears out a history of about seventy-five years. Somehow, though, when the dust settles, the doom turns out to be not so bad at all. For some people, it's even pretty gay as time goes on. One realizes that even with this Resolution, approximately a fifty percent increase in residential population is possible. One can only gasp in fearful anticipation of the growth that can take place, particularly in some neighborhoods.

Fortunately, the envelope which even this resolution provides now will probably not be filled for more years than any of us can anticipate. We are particularly pleased to see for the first time in a zoning resolution or in any other official document of the City, that there is some procedure for anticipating needs in a neighborhood when large-scale developments are planned. This resolution provides that where large-scale developments are planned somebody shall take a look and see whether other facilities, schools and other community facilities, are required, and then set up a procedure that gives the City authorities some three months in which to work.

I am not at all sure, if I may say this, that this long step forward is also a firm enough step. Frankly, I don't know any other

answers, and I would ask that you seriously consider -- if the Planning Commission has established a need for community facilities -- I'm referring to, I believe, Section 2523. If the Planning Commission determines that a need exists, then we would hope that some step could be taken to satisfy that need. I recognize that there is no way of, in advance, in a zoning resolution determining the City's building program; and I recognize, also, that there are probably serious legal problems involved. But if a reservation of sites is decided as being necessary, then would it be possible to put some teeth into this proposal? Now, whether you can or not, I don't know, but I would ask you to look into it. We have tried and, frankly, have come up with no answer. We are concerned for passage of this resolution, also, because for the first time, perhaps, it will be possible for the appropriate City agencies to make some meaningful predictions of future population and, particularly, future school child population so that more effective planning of schools can be done.

As you know, those of you on this Commission are very much aware as things stand at present, from year to year nobody is able to predict what the needs will be in the very near future. This resolution offers some promise and for these reasons we are totally in support and would like to see it passed. And I'm very grateful to this Planning Commission. Thank you.

CHAIRMAN FELT: Thank you. Is Mr. Remer present?

VICTOR REMER

MR. REMER: Chairman Felt, distinguished members of the City Planning Commission, my name is Victor Remer. I am Associate Director of the Lenox Hill Neighborhood Association and Secretary of the Yorkville Housing Committee, which is composed of some 125 members representing the large institutions in our area: Churches, hospitals, social agencies, banks, schools, local political clubs of both parties, as well as public officials.

At our last meeting on March 9th, 1960, the Committee by a unanimous vote agreed to support the principles of the proposed rezoning resolution. We believe that this resolution is essential and long over-due; and in the best interests of all of the people who live and work in the City of New York. We will be delighted to stand with you and other proponents of the resolution in working for its enactment into law.

After hearing some of the statements made this morning, I would be remiss if I did not add the following. It has been a delight to observe the role of the City Planning Commission since the inception of the first draft of the rezoning study. Concerned individuals and groups all over this town were given the rare privilege of working with the City Planning Commission, of having the assistance of the staff of this Commission, who interpreted the technical aspects to us, who listened patiently to our criticisms and suggestions, and who showed such receptivity to modifications that were valid.

Your concern for process, for maximum citizen participation, is truly a reflection of the best in democratic public administration, and all of you deserve the plaudits for a magnificent job. Thank you very much.

MRS. ROBERT RUSCH

MRS. RUSCH: Chairman Felt, members of the City Planning Commission, my name is Lis F. Rusch, Chairman of the Housing Committee of the Yorkville Civic Council, the coordinating council of social agencies in the Yorkville area of Manhattan.

I am appearing today for the Yorkville Civic Council, which voted unanimously on Tuesday, March 8, 1960, to give our enthusiastic endorsement of the principles embodied in the Proposed Amendment of the Zoning Resolution of The City of New York. We feel that the City Planning Commission is to be congratulated for its vision, its courage, and its efforts in furthering this good, sound, workable, effective guide which will, in our view, help to make New York City a better place in which to live and to work. Thank you.

CHAIRMAN FELT: Thank you. Martha Ross Leigh?

MARIEA ROSS LEIGH

MISS LEIGH: Mr. Felt and members of the Commission. I am Martha Ross Leigh, Chairman of the Executive Board of the Bedford-Stuyvesant Neighborhood Council. This is a voluntary Association of approximately eighty block associations in a large, old, residential section of north central Brooklyn. At the regular monthly meeting in

Rusch / Leigh

February, the representatives authorized to be present at this hearing and express their support of the Zoning Ordinance proposed by the Planning Commission.

In this organization, most of the members own the houses in which they live, and in this way we have great sympathy for the gentleman from City Island. However, the general nature of the area is quite different. While the houses are owner occupied in a great many cases, they are large houses. This whole area of Brooklyn is the result of the over-building with luxury housing in the period of probably 1875 to 1885, or so, and the recent occupants of these houses made valiant attempts to modernize to make better usage of them. Primarily, they are single-family houses and two-family houses, with a number of conversions, mostly legal conversions, to small multiple dwellings.

We are very much aware of the menace to our neighborhood that is inherent in the present zoning, which in many instances has never conformed to the generally residential character and use of the property. The original mistakes of the 1916 zoning and the possibility of variances are a constant threat to our peace of mind and our property values. As you can imagine, many of these blocks included stable properties and small blocks between residential blocks of big houses had stables which, eventually, were converted into garages and recently have been more and more converted into small manufacturing establishments, which was never anticipated at the time they were built. So these variances that are being granted right along - we're threatened with another one now on Putnam Avenue -

are intrusions into a predominantly residential area.

As we stated at the preliminary hearings, we are convinced that the proposed Zoning Resolution will be much more conducive to the security and stability of cars and other residential areas of the City. None of us who have studied the text of the resolution are experts. None of us are builders. However, we are aware that the intent of the Commission in making these proposals is to accomplish very drastic improvements in every aspect of city life, in assuring more access to light and space for all new building units, in controlling the objectionable aspects of manufacturing and commercial activities adjacent to the dwelling units, and by requiring arrangements for off-street parking and loading, probably relieving to a considerable extent the present traffic congestion.

In making this statement in support of the proposals, we believe we speak for hundreds of families in this and in other residential areas throughout the City, who have occupied their present homes for twenty years or more, and who hope to continue to live here in the City. Though we individually are not important, we feel that our opinion should carry weight against the opposition to these proposals, which comes largely from a group that thrives on the instability of neighborhoods.

The organized real estate operators naturally are not in favor of stabilizing influences. Their livelihood depends upon changing neighborhoods, upon the sale of property, and, upon people moving from one area to another as often as possible.

Leigh

We want to establish ourselves and be secure and rooted in convenient, attractive and pleasant home communities. Therefore, we support the Proposed Zoning Resolution and hope it may be enacted by the City.

CHAIRMAN FELT Thank you. Is Mr. Koenig present? Mr. Max Koenig, the Executive Secretary of the Building Industry League? We have a list of people who intend speaking this afternoon. It's quite an imposing list. By imposing, I mean there are many included in it. If there are any who were scheduled to speak this afternoon and who wish to speak this morning instead, we have twenty-five minutes before our recess time.

HARRY BRAM

MR. BRAM: My name is Harry Bram. I'm at 16 Chambers Street. Mr. Chairman, members of the Commission, after listening to so many speakers for this proposal I wonder whether these people are getting exactly what they want already, whether they understand the thing, and how costly it might be. I am opposed in every respect to your zoning plan which, in my opinion, is an unjust imposition against property owners throughout the City of New York. New York City requires no new zoning resolution any more than the United States would require a new Constitution. Our City has a Zoning Resolution which has been workable, is workable, and will be workable by proper amendments. And I mean proper amendments only where necessary. For you gentlemen to come through with a Utopian edict at this time, to me is ridiculous.

Leigh / Bram



I have always looked forward, as time galloped on, for the best, but still I have been able to defend it worse, with plenty of lip service at greater cost. The City Planning Commission has evidently embarked upon a mission to make big things out of little things, which will wipe the little man out. Now, never mind the big man - I think he'll go, too. You gentlemen seem to forget that approximately since 1950, the City of New York became the owner of a preponderance of property throughout the City of New York as a result of state legislation which was intended primarily to hasten the payment of taxes. But most of the fee owners could not pay the delinquent bills so the City took over in rem. We seem to forget this condition is still with us. That might have been the time to strike, gentlemen, as nobody could question to any extent whatever zoning you would give the City-owned property. It would merely sell for less. However, you missed the boat, by standing by and watching the City sell these properties to those who would pay the highest prices. As a matter of fact, you even conscientiously by amendment caused changes in zoning in area on property taken in rem by the City of New York, so that such property could bring a higher price at auction to the City. Whereas, you refused similar change requests for previous owners.

The statement that there are too many amendments cluttering the present zoning resolution is possibly correct but, if true, it is the fault of you gentlemen on the City Planning Commission. You are very good-natured. You adopt most every resolution. However, I hope

you start using better judgment and file the proposed text and zoning resolution in an unknown sewer. I do not go along with your thought of less building and more ground. For the longest time parks, playgrounds, and even schools have not been safe for men, women and children to enter and exit without risk of life. Therefore, it is necessary to point out the possible danger which may result from less building and more ground. Besides, you cannot guarantee builders who, let us assume would go along with your idea of less building and greater open space -- that they would not be confronted with some new departmental ruling serving them with a forthwith notice to maintain their own police department to police such greater open spaces. Hasn't it, gentlemen, always been the pattern to trap property owners and keep them trapped?

A very important necessity in this City would be coordination in the various City departments. That's a tough nut to crack. But, pay attention to that, gentlemen, you serve us the capital budget. I'd like to delegate you, as a taxpayer, to that task, but where are we going to get the money from? The proposed zoning resolution really adds up to nothing other than more chaos, which all normal property owners resent. And I said property owners. You have adopted many resolutions in the past without opposition from interested persons, who failed to appear at hearings at the proper time. But this proposed resolution is opposed strenuously so why are you so intent to put it over. Gentlemen, I must conclude now. I have to think more. I suggest that you do not adopt this resolution. Thank you.

CHAIRMAN PEARL: Thank you. Is there anyone else who wishes to be heard before our 1:30 recess?

ABE SOLOR

MR. SOLOR: My name is Abe Solor. I am a developer and builder on Staten Island. I appear here in favor of this Resolution, its general text. I reserve my comments on certain sections of the mapping, on which I'll appear on the 25th. However, knowing that the Real Estate Board, the Chamber of Commerce, had what I call an illegal resolution of the Builders Association to go along with the Chamber and the Builders - being their former Chairman of the Zoning Committee.

I appear here as one of the largest property owners on Staten Island in favor of this resolution for the reason that Staten Island will be benefited more than any other borough in the City with this new zoning concept, regardless of whether this thing may hurt me in the amount of dollars and cents on the properties that I own.

I am a realistic real estate man, having worked in every borough of this City since 1926. I've seen every borough grow, even in the days before I was in the business. And let me tell you, gentlemen, that the job that you are conceiving in this new resolution, both for Staten Island and the City as a whole, should be commended. I happen to be a Director of the National Association of Home Builders with a membership of 43,000 and have been on that Board for the last nine years and know how planning is done throughout this country.

Gentlemen, don't let all the real estate interests tell you that economically and otherwise they are going to be at a loss.

Solor

I think, economically, they are going to be at a gain. Just let them make up their minds that it's very easy to study this resolution if they want to - if they haven't got conceived opinions before they read it. That has been the trouble with most of our organizations in Staten Island, who have studied this thing. They have studied it for the benefit of those few who sit on those committees and have got personal gripes that they may be affected by this new concept of zoning. Thank you, gentlemen.

CHAIRMAN FELT: I give you this additional opportunity - anyone who has not been heard or anyone who is scheduled for this afternoon may speak at this time if he wishes to. If no one else wishes to be heard at this time, we will recess and resume our hearings at 2:30.

(Recess at 1:40 p.m.)

(The Commission reconvened at 2:30 p.m.  
following recess)

CHAIRMAN FELT: The meeting will please come to order after recess. Will the Secretary please call the roll?

SECRETARY MALTER: Chairman Felt, Vice Chairman Bloustein, Commissioners Livingston, Orton, Sweeney, Provenzano, Acting Commissioner Constable. Quorum present.

CHAIRMAN FELT: We will now resume with the speakers scheduled for this afternoon. Is Mr. McGrath present?

HON JOHN P. MCGRATH : Mr. Chairman, my name is John P. McGrath. I am a practicing attorney with offices at 26 Broadway. I have been connected with zoning litigation over a period that now extends beyond thirty years. My late partner, Judge Richards, had the St. Albans - Springfield Corporation where the Court of Appeals laid down the rule that temporary variances of the burden of zoning restriction was the proper thing in areas which were not yet ripe for development for the purposes for which they should ultimately be used. Some years after that - I think it was in the middle thirties - your distinguished Vice Chairman and I were responsible for a decision of the Court of Appeals in the Arverne Bay case, which said that where a restriction is placed on property which renders it economically impossible to develop the property for conforming use, the restriction will be struck down as confiscatory.

During the years 1947 to 1951, I had the honor of representing the Board of Standards and Appeals as Corporation Counsel. This distinguished body had less need of my services since its function was legislative rather than administrative, hence not subject to review of the courts. I advert to this exposure to the problems of zoning for the purpose of indicating that my interest has been a continuing and, I hope, a constructive one. It is in the light of that constructive interest that I advance the suggestions which I would like to advance this afternoon. I have had the opportunity of frequent contact with the members of this distinguished Commission, and I know that when the first proposal saw the light of day you, Mr. Chairman, did not say that it was your proposal but, as I recall it, you indicated that it was a proposal by experts in the field with respect to which you and your colleagues, as well as the Bar and the building industry, the architectural profession and the public at large would have to take a position. And, certainly, the labors since that first proposal came out have been

assiduous on the part of your Commission and every opportunity has been afforded to those with an interest to make suggestions and recommendations, and access has been encouraged at all times. I'm sure that the people of the City and those especially interested should be grateful for that.

As a result, there came into being in December what I would call as a lawyer a so-called second or intermediate draft. I hope it is an intermediate draft of the ultimate resolution. And I take it we are now addressing ourselves to that draft and not as a final thing with which we shall agree or disagree but as a document to be further amended if the public interest indicates that it should be. I represent the petroleum industry, my associates and I, and in that capacity I have engaged in a study with the counsel for the various petroleum interests in this City with a view to evaluating the impact of this proposed resolution upon that industry and where such impact might be unduly onerous, to make suggestions for some alleviation.

I am happy to say publicly that I found among the distinguished counsel for the petroleum companies a constructive spirit, a recognition that zoning and the planning for development of areas both old and new is a constructive thing; and I sensed what I would say was a commendable reluctance to make any suggestions which might be in the nature of special pleading without regard to the over-all public welfare. We have developed a number of suggestions which we have had the opportunity to present informally and privately to the Commission in advance of the hearings and which we have embodied in a memorandum, dated March 3rd, which has been filed.

I would not trespass upon your time today to go over those

McGrath

individually. Suffice it to say that we are grateful for the opportunity that was given to us to talk about them and that we await decisions on those matters that are still open and under discussion.

The problem of performance standards, as written into the resolution is one which gives the petroleum industry some concern. Some suggestions have already been made that would not involve the abandonment of this category of regulations, and I think that that subject may well be left to informal discussion although I think I should say in passing that the question of the jurisdiction of your City Planning Commission to deal with this particular field is certainly not exclusive and it may be open to debate as to whether it is a proper function of this Commission.

Limiting my problems with respect to those standards to their impact on the industry which I represent I pass that question with that observation; and I come to a subject which is the only subject with which I would like to deal with seriously this afternoon. I do so not merely as an advocate on behalf of the petroleum industry but as a lawyer seriously interested in doing the best job with this resolution that can possibly be done. I'm referring to the very important subject of variances and special permits.

In 1916, when the first zoning restrictions were enacted, it became speedily apparent that unless there was a safety valve through which release from the rigidity and hardship of restrictions in use could be afforded in appropriate cases, there might well be



confiscation of property and undue or unconstitutional exercise of the police power. And so it was recognized as a fundamental principle of zoning legislation that there should be this safety valve which ultimately came to be known in the old resolution as Section 21, which dealt with the power to relieve, where practical difficulties and unnecessary hardships were present. Such relief was delegated to a Board of Appeals, which has become the accepted body to which, by administrative action, to give relief from the rigid restriction of the resolution itself. The general public was protected.

Now, I regret to say that in the proposal now under consideration the necessity for that administrative jurisdiction to give relief has, in our judgment, not been adequately treated. We have prepared a memorandum in which we deal with the subject and just to give you our conclusion on this point we say in the memorandum that the proposal now under consideration would ignore the lessons taught by experience and would permit the granting of variances only in relatively few instances and in designated areas of the City in which predetermined conditions were found to exist. Even in these cases the Board would not be free to exercise the discretionary powers heretofore conferred upon it because the scope of its power to grant variances is strictly circumscribed by the very provisions of the proposal.

Now, from the time that this so-called safety valve first  
McGrath

came into being in 1946, there has been a gradual expansion of the power of the Board of Standards and Appeals under it, and that by this very Commission which initiated the amendments to the current zoning resolution, and that was done undoubtedly in response to a proven need for the granting of such additional power.

Now, I don't think it can be disputed that the proposed zoning regulations now under consideration are unquestionably far more stringent than those presently in effect. With this tightening of general restrictions, one would expect to find a broadening of the power to grant relief therefrom, but this we have searched in vain for and is what prompts us to make the proposal that we have made in our memorandum of March 3rd, which we have filed with you.

The proposal under consideration not only limits the cases in which the Board may entertain applications for variances but permits the granting of any such applications only where the Board finds that certain prescribed conditions exist. If any of the prescribed conditions are absent, the Board is precluded from granting the application, however meritorious it might be.

We are of the opinion that these restrictions are not desirable and we urge that they be deleted and that the provisions of Article 7, Chapter 3, be revised to conform to the suggestions which we have advanced in our letter.

VICE CHAIRMAN BLOUSTEIN: Mr. McGrath, you know

McGrath

that the restrictions that you speak of are the very things that the Court of Appeals has indicated must be conditions before they would uphold the grant by the Board of Standards and Appeals as coming within the province of Section 21, the unnecessary hardship section. Over the years it has been the Court of Appeals that, by its definition, limited the work of the Board.

MR. McGRATH: I question the wisdom of precluding any other valid and meritorious basis for relief by codifying those which have been recognized as meritorious by the Court of Appeals.

VICE CHAIRMAN BLOUSTEIN: But you agree with me that this is what the Court of Appeals has denominated as a definition.

MR. McGRATH: I will have to take a middle ground there, Commissioner. I would say that in the original draft the prescribed conditions were much more onerous and rigid than the ones that have emerged in the second draft, and I'm hoping that we will still further water those conditions down because, in my judgment, it is sound legislative practice; and this legislation is not to invoke the rule of *inclusio unus exclusio alterius*. I don't think there should be a stipulation of just those conditions.

VICE CHAIRMAN BLOUSTEIN: One other question, Mr. McGrath, and that is this: with respect to all the subdivisions

of Section 7 in the existing zoning resolution - 7 (e) is the omnibus provision ...

MR. MC GRATH: That's right.

VICE CHAIRMAN BLOUSTEIN: Would you advocate putting back 7 (e) in the new zoning resolution?

MR. MC GRATH: Yes, sir.

VICE CHAIRMAN BLOUSTEIN: In its very broad blank-check form, without standards?

MR. MC GRATH: Well, there are standards in the zoning resolution. I would say, in the proposal - we have actually drafted a proposal - the last item is ...

VICE CHAIRMAN BLOUSTEIN: We have your memorandum.

MR. MC GRATH: The last item is, and I quote: This is G of proposed 73--11, "The Board may permit for a limited term of years buildings or uses not in conformity with the Use regulations herein contained, and not otherwise provided for in this Section."

Now, actually, the Board of Standards and Appeals is comprised of members possessing peculiar qualifications by reason of  
McGrath

their specialized education and experience to pass upon the matters within the jurisdiction of the Board. When its determinations have been judicially challenged in the past, it has been required to set forth the findings of fact upon which it has based its decision, and the courts have passed upon the propriety of its action in the light of the facts found. We believe that this method of procedure has proved completely satisfactory.

I don't know that there has been any demonstration of abuse of a blanket power of this kind; and I point out that the power exists in this body in conjunction with the Board of Estimate under that sort of a mongrel arrangement that exists in Section 200 of the Charter which I fervently hope someday somebody is going to correct. I hope that the Charter revision committee now functioning will give its attention to that but, if there is an abuse, that abuse can be readily taken care of when there is a demonstration of need for taking away such a blank check.

We are also of the opinion that the provisions of the proposed revision which would require the Board to impose specified conditions upon the grant of a variance or special permit should be deleted therefrom. The Board of Standards and Appeals should be free to impose such conditions and safeguards as the individual case warrants or renders desirable. And, from my observation, the Board in the past has not been the slightest bit reluctant to impose conditions in the public interest; and those conditions have gone a  
McGrath

long way to justify the grant of this administrative jurisdiction to the Board. After all, Mr. French said the other day - to which I wholeheartedly subscribe - it doesn't make any difference what you put on paper if you haven't got the right kind of people to put the power into execution and to do it with judgment and discrimination, then the law isn't very much good by itself.

Now, the foregoing comments apply also to the section of the proposal relating to the grant of special permits or exceptions by the City Planning Commission. We urge that these sections be amended by deleting therefrom the portions which bar the Commission from acting unless prescribed findings are made.

Now, if I were to sum up my plea here today -- it is to preserve the traditional distinction between the legislative function which is exercised by this body and the administrative function which is exercised by the Board of Standards and Appeals. I recognize that there is an intermediate area where it might be said that the function is predominantly administrative, but the subject at hand is so closely interwoven either because of its character or its size or some other element, that serious basic problems of planning are involved. Then I certainly recognize that that jurisdiction should be reserved to this Commission and not to the Board of Standards and Appeals.

Now there is respectable authority for the position which I have taken. I don't like to trespass unduly on your time

but I would like to say what Edward M. Bennett, who is the outstanding pioneer in the zoning field, said about this subject of a safety valve. He said, and I quote, "In establishing the Board of Appeals, a municipality furnishes a forum where an applicant can be heard who thinks he should be allowed some amelioration of the strict letter of the law. In states that do not have zoning boards of appeals spot zoning becomes the practice of local legislature. Instead of a variance in the form of a permit, which does not alter the zoning map, the regulations relating to a particular lot are changed to accommodate the needs of the applicant. The court has no power to review or readjust in such a case. The tendency of the local legislature where there is no board of appeals is to disregard comprehensive zoning, and the relation of the zoning plan to the health, safety, and general welfare of the community. As years pass by, the increase of spot zoning subverts the original soundness of the plan, and tends to produce conditions almost as chaotic as existed before zoning."

And, of course, just as necessity knows no law, when an intolerable restriction exists upon property pressure is going to build up for relief. And unless you have the body in existence, with sufficient power and jurisdiction to give the relief indicated in the case, you are going to have the people coming back to you, and that's unsound. This body should not be devoted to what are relatively insignificant and petty matters in the light of the over-all municipal

problem of broad planning which it is your function to address yourselves to.

VICE CHAIRMAN BLOUSTEIN: Mr. McGrath, do you mean that unless the powers of the Board are liberalized, this Commission may be called upon to make map changes more frequently?

MR. McGRATH: Oh, indeed, and in very, very restricted and limited areas, which is not the concept of this body's function at all. And to unduly limit the Board of Standards and Appeals, you frustrate your own purpose. The consequences of a failure to provide adequate variance powers must be carefully considered. If the general restrictions prohibit the improvement of property in any manner consonant with good judgment, they exceed the legislative power conferred upon the City and are confiscatory and void. If the owner of such a property sought relief in an appropriate action, the restrictions would be annulled and the property in question would be freed of all zoning restrictions, a result which would not be in keeping with sound zoning practice. The result can be avoided only by empowering the Board of Standards and Appeals to grant relief in an appropriate case and by leaving to the discretion of the Board the determination of the nature and extent of the relief, if any, which would be appropriate.

In closing, I would like to make this point: for the Board of Standards and Appeals, as such, this is an argument

McGrath



predicated on sound principle; namely, the distinction - the compelling distinction - between the legislative and the administrative function.

It's a matter of indifference to me whether that administrative function is exercised by the Board of Standards and Appeals or by some other board with some other name, or by a separate division of this Commission if there were legislation so erecting the structure of this Commission. When I was Corporation Counsel I advanced the argument that perhaps the sensible thing to do would be to blanket all this jurisdiction within the four corners of this Commission but if you did you would have to have two divisions - one to deal with the making of the rule, the legislative function, and the other to deal with the so-called safety valve provisions, the administrative ones, which would be subject to court review in the protection of both the property owner and his neighbors. Whereas, the legislative function would be final because that is where the legislative power is vested in conjunction with the Board of Estimate.

Gentlemen, I advance these views from a sense of conviction rather than a sense of advocating the views or the interests of any particular client, and I urge that serious consideration be given to the draft of what we think would be a good, workable variance chapter. Thank you.

McGrath

MR. BANKS: My name is Mr. A. Bank, Co-Chairman of the Federation of Civic Councils of the Borough of Queens and likewise the Zoning Association.

We represent some 138 civic associations within the Borough with a total membership of some 110,000 homeowners within that borough of the City of New York. From a position of contribution to the affairs of the City of New York, I might say that the homeowners whom we represent in the payment of their real estate taxes, contribute each year somewhere in the nature of 138 million dollars to the operation of our City. And these people have now come before you and have asked me to speak in their name and on their behalf on the matter of the proposed zoning resolution.

It is needless to say at this moment that we most vigorously support the proposed zoning resolution that has been offered by the Planning Commission for submission to the Board of Estimate. Not only do we vigorously support it but we urge upon you that all haste be made in such submission so that we can at least get some order out of the chaotic conditions that exist in the City of New York, particularly in the Borough of Queens. Although I knew that I was scheduled to speak in the afternoon, I came here this morning in order to listen to and hear the arguments advanced by those who are opposed to this zoning resolution and at least to make myself, within my own

mind, satisfied that the position that we have taken is not only justified but is the only position that will inure to the public health, safety and general welfare of the people of this entire City. In all the arguments that I have heard, I am glad to say at this moment that I feel more than ever justified in our position and feel more than ever dedicated to, as vigorously as I can, support it not only before this body but before the Board of Estimate.

At this particular moment, let me say that with reference to some of the statements made by the last speaker, I as a homeowner representing 200,000 homeowners can only stand before you and say that it is the petroleum industry and that industry alone that has been the greatest malefactor in creating the present conditions that exist not only within our Borough but in all the boroughs of the City of New York. How can we, in Heaven's name, reconcile a condition where we can see eleven gas stations within an area of eight blocks? How is that necessary to support and supply the needs of the people of small communities? And yet, there has been ever and ever increasing demands for variances to permit the petroleum industry to set up its gas stations in all areas, not only in our retail districts but in our residential districts, as well. The only way they have been able to do that is by making their applications under Section 7 (e), which gives to the Board of Standards and Appeals carte blanche authority to grant these variances and without any specified reasons.

There are plenty of precedents in the law resolution that when a man comes forth under the provision of this proposed resolution on practical difficulties and unnecessary hardships - when this individual comes forth in good faith and says that this property cannot be used, cannot be developed for any other use but a gas station, there are provisions and ways and means to apply to the Board of Standards and Appeals for such a use. But here, our neighborhoods have been blighted; they have been desecrated, degraded and depreciated by a use that adds nothing to the beauty of a neighborhood nor to its well-being, for wherever there is a gas station, immediately behind it there is a deterioration of property which ultimately winds up either as a junk yard or the home that is built there is run down to such a degree that it begins, like a cancerous growth, to spread within the neighborhood and cause the very slum areas that we are trying to abolish and obliterate.

Remember, gentlemen, it is not only people who create slum areas - it is the zoning and planning board of a city that permits such planning, to produce such buildings, that generally create the overcrowding and great density that is fertile grounds for the beginnings of the creation of the slum areas. We have been most fortunate, I believe, to be able to participate with the members of our Planning Commission and the city government in this little, and I say little, portion of civic adventure. For here we are being given the privilege of leaving behind us something that may, and I hope will, be a monument to the foresightedness of the people of this generation.

Since 1916, we have lived with a Zoning Resolution that was not a zoning resolution at all. There were so many safety valves - and I use that phrase because it was used by the last speaker - there were so many safety valves for evasion of a strict conformity with the zoning resolution that we were finally able to produce within our City such a hodge-podge and crazy quilt of zoning that if you were to take a walk through the City of New York, you would be amazed at the uses that exist on one square block of property. Certainly, for the greatest City in this world, for a City which we must hold out as the cradle of democracy, we should at least produce something that is not only modern, but that is beautiful and will stand as a monument for which we shall never need to be ashamed. I am ashamed of the City of New York as it presently exists. The slum areas that were created could only have been created because of the permissive zoning that is fundamentally the present zoning law of the City of New York.

We have been accorded such great opportunity by this Planning Commission to meet with them and to discuss with them this present zoning resolution, that we feel that in a sense this is not only the zoning resolution of the Planning Commission but it is the zoning resolution of the people and, particularly, of the people of the Borough of Queens. For over a year we have met constantly with the Planning Commission and have been accorded every opportunity to submit to them changes, recommendations and modifications which we thought would inure to the benefit of the people as a whole. We have no selfish interests to serve here. We are not realty operators who must get the last bit of financial drainage from

a particular portion of real estate. We are interested in a beautiful City, in a City where we can bring up our families, our children, and leave to them a heritage so that they will never be able to say, "These are the tools you left for us. These are the slums that we were forced to correct in the later generation." The opportunity is now, and no amount of amendments to the old zoning resolution can in any way bring forth something that will create the conditions under which the present City of New York has been built.

All the amendments, and there are over 2,000 of them, not only in text but in mapping - there are over 2,000 of them - all amendments that were ever made were only fresh mistakes that brought new hardships and a great deal of privation upon the people of our City. Do you know that the people of the Borough of Queens live in constant fear of the Board of Standards and Appeals because we have lost all confidence in that body to preserve the intent under which they were created, which is outlined in the zoning resolution, which is to preserve the health, safety and general welfare of the people. You can tell me from now to doomsday that the men who sit there and pass upon the variances are particularly and peculiarly qualified as homeowners. I have seen the monuments that they have erected which will for many, many years, stand as monuments of disgrace to the things that have been permitted in our areas.

Can you visualize in a residential area a bus garage for buses, gas stations that are put up in residential areas, warehouses and factories going into residential areas, and all under Section 7 (e).

And when we go to the Supreme Court on an application in a certiorari, the Supreme Court uses the same phrases it uses hundreds of times - that they cannot substitute their judgment for the judgment of the Board of Standards and Appeals because it is set forth in the law that unless we can show that they are so arbitrary and capricious as to be outstanding, they - the Supreme Court - cannot act. And you know, gentlemen, how difficult it is to prove and to show that. And yet, even when the first draft of the new zoning resolution, as set forth by the architects, was delivered into the hands of the people of this City, there was such an upsurge in applications for variances that it became almost a burden to the people to watch the bulletins and to go constantly to the Board of Standards and Appeals to oppose them. Not only am I talking of gas stations and factories, not only am I talking of junk yards, car repair stations and warehouses, but I'm talking of our most restricted one-family residence use districts - the "G" and the "G-1" Districts - that at the present time are the only spots of beauty to which we can bring visitors from foreign climes and say, "This is the manner in which we, the people of a Democracy, live". And what do we see happening in those districts? Application upon application for the invasion of apartment houses in those areas.

Now, if the people were not so selfish in trying to milk the last dollar from this land - and these areas have existed as one-family home zones - if they were not so anxious to create cliff-dwelling apartments where normally there were five or six one-family houses - they get these parcels together and get exorbitant prices for the land

and the house and intend to erect upon them an apartment house to accommodate 190 tenants - 190 families where five formerly existed. This, of course, being permissive under a very broad statute of Section 7 (e) has been granted in many cases and denied in a few. But, however, it brings up this fundamental thought in one's mind. Here is a zoning resolution created in the horse and buggy days of our era, where the people envisioned the creation of a City to house 55 million people. On this little grain of sand that we call the City of New York they envisioned 55 million people. With only 8 million people, look at the hardship and the difficulty of maintaining a good City government. Density of population is a very important factor in the development of the City.

We are at present living in an atomic age. Gentlemen, God help us if for any reason at all, we permit such an expansion of this City to even envision 25 or 30 million people in this particular area. If some dictator, motivated by insanity or any other force, should press a button - - to my mind the cities of the future need to be, more than ever, sparsely populated areas -- less density per square foot than ever before, for our own well being and the preservation of our way of life. Unfortunately, as I listened this morning to the very many speakers who came up here -- and I shouldn't say very many because there were only two or three -- who came up and spoke in opposition to this proposed zoning resolution -- the only thing that I could get from them is that the present height and bulk regulations and density will



not bring in the dollars, the silver that is necessary to make a big profit. I disagree with them because I can envision a city built under the rules and regulations envisioned in this particular zoning resolution that will bring not only a fair return but will make us a city of which you, the Planning Commission, will be proud and the people who have participated in it will say to themselves, "We have, in some small measure, been responsible in leaving to our children and our children's children something that we can be proud of."

Of course, Mr. Chairman, we have submitted to you some modifications which we would like to see incorporated in the new zoning resolution. To an extent, these are tightenings of the present restrictions because we have found -- and we are the people, we are the government of this City -- we have found that we cannot have confidence in administrative officials appointed to office unless these restrictions are incorporated and are not made a matter of fancy or whim on their part. We must have a resolution that will secure to the individual buyer of a home the knowledge that, "There can be no change in my district. I can feel secure that there can be no invasion of a non-conforming use." I must have these regulations codified explicitly and set forth at length before the people feel they can come before you and support the resolution.

Mr. Chairman, it gives me a great deal of pleasure, on behalf of the people of Queens - 200,000 homeowners, almost over a million people who have come before you today and, through me, ask

you not to delay, because, remember, there has been sufficient time given for proper perusal of these regulations. We've had it since 1950, when the first Harrison, Ballard and Allen plan came out. We set up committees to study the inefficiencies, inaccuracies, and the bad features of the zoning resolution, and we were prepared when it came forth in 1959 -- to know what was good, and to implement them and request them of you. There has been no haste. In fact, as far as we, the people, are concerned, you have been fumbling around and have taken your time to such an extent that I fear that with the upsurge of all these demands for variances, we may have fifty to a hundred years ahead to correct the terrible mistakes that we have made now.

With one final word: we in New York City are most fortunate in the way we can proceed to correct the mistakes that we have made. We need no blitz to level our cities in order to rebuild. In this particular city we rebuild almost from day to day. We progress as we go on. We tear down and rebuild. So this is the time to do it. This is the moment to act. Please, on behalf of the welfare of the people of our City, act, and act as expeditiously as you can for, in their behalf, this must be done. Thank you.

ARTHUR C. HOLDEN: Mr. Chairman, my name is Arthur C. Holden, a practicing architect of New York, a member and Fellow of the American Institute of Architects, New York

Chapter, and of the New York Chapter of the American Institute of Planners.

I have served for four years on the Mayor's Committee on City Planning from 1934 to 1938, and I only cite that to show that I have some experience in this matter.

I served as President of the New York Chapter in 1944 when we joined in asking for a revision of the zoning law, and at the time when the war was going on in the interest of stiffening of the restrictions, and I pointed out at that time that if the restrictions were stiffened then, it would be possible to relax in a more intelligent way with a comprehensive revision to the zoning ordinance.

I think that set in motion the movement which called in Harrison, Ballard and Allen to make their report in 1950. Unfortunately, that was defeated and we have now had another period of study; and I want very discreetly but nonetheless strongly to support the effort of this Commission.

While the original Commission was drafting the original Zoning Ordinance back in 1916, its young secretary, George B. Ford, lectured at Columbia University in a course called "Civic Design," in which I was fortunate enough to be enrolled as a student. Because of this and because of my subsequent friendship with Edward M. Bassett, counsel to the original Commission, I am familiar

with the reasoning which framed that epoch-making ordinance.

The Commission was created because public opinion was alarmed by the Equitable Building which was reconstructed following a disastrous fire and it was felt that the over-development of individual plots of property was taking too much light and air away from streets and neighboring property and could be shown to be injurious to the public health and welfare. The Commission had to face the fact that though it was authorized to use the police power of the state for public safety and health, it was necessary to keep within limits that were likely to be held constitutional by the courts.

That was one reason for separation of use zones, area zones and height zones. The set back principle was introduced into law and thus was made applicable to sizes of courts and yards as a measure of health. Of course there was opposition very much like the opposition we encounter today. It was even pointed out that the prescribed court sizes would make building impossible.

Most of the opposition, however, was centered around what could be done in office buildings and large hotels. The tenement house law of 1901 had already set limits to courts and yards and to the heights allowed for multi-story residences. The new zoning law as introduced did not affect small residential buildings and scarcely affected the bulk of the

average six-story apartment which was being erected in large quantities at that time in the Bronx and upper Manhattan. The original Zoning Ordinance was not as restrictive as the old tenement house law, therefore, we began to develop a class of buildings under the guise of residential hotels. I know because my office was retained as advisor to the Commission to revise the tenement house law in 1926.

That Commission was defeated in what it attempted to do, and my office was dismissed. The proposed multiple dwellings law was reshaped so as to add to the permitted bulk of residential buildings. The set back principle was made a part of the multiple dwellings regulation.

Take a look at the Empire State Building and you'll notice that there are no courts at all. The original zoning ordinance was worked out on the basis of what was the then average size of lot. By the use of larger sized lots it was found possible to gain what seemed like an economic advantage. The Empire State Building is an example of the utilization of the complete zoning envelope. This means the use of the air rights over a particular lot which is not restricted by the prohibitions of the Zoning Ordinance. There you have the phrase that characterized the original ordinance of 1916. It was an ordinance based on prohibitions in the interest of public health and public welfare.

The proposed ordinance represents a maturer approach. It has been framed from the positive rather than the negative point of view. It states what is permitted rather than what is prohibited. It begins by saying the floor area permitted in a building should be determined primarily by a ratio of floor area to lot area which varies according to the zone in which the property is situated. Yes, the proposed ordinance will have the effect of reducing allowed bulk of buildings. It is intended to do so. It should do so. The original zoning ordinance started tendencies which created buildings of greater bulk than were dreamed of when the original Commission recommended regulations which its conscientious members believed might be sustained by the courts.

It has become advantageous for speculators to assemble large plots because builders have learned that court and yard restrictions and even the coverage restrictions of the recent amendments are less restrictive considered in relation to large plots. This has had the effect of bidding up prices for land. Then in turn as market sales are recorded it is made possible for the city to assess higher taxes in sections where land is being actively traded. This again tends to force more intensive development and greater congestion of streets and living quarters as well as in commercial space plus the tendency to drive industrial uses out of the city.

Now it isn't necessary to go into details. I don't presume to say that the proposed ordinance is perfect but it attempts to do several things that are supremely important for the general good of our city.

- 1) It attempts to reduce allowed bulk.
- 2) That in turn should reduce the tendency to exploitation.
- 3) It is positive and permissive rather than negative and prohibitive.
- 4) It introduces some very sensible new means of measuring standards - the floor area ratio and the open space ratio.
- 5) It provides a bonus for open space.

Now let us not be impassive because we are frightened by technical difficulties or because, before we start working with it, the proposed ordinance looks hard to understand. This is a democracy and we, the public, act because of our convictions. We act because we feel a cause to be the right one. It is upon our emotions that we finally depend rather than all sorts of complicated reasons that are debated back and forth and frequently serve only to cause confusion.

This ordinance is designed to check exploitation and bring the city back more nearly into channels that harmonize with human scale. Remember that zoning is good when it checks selfishness. Zoning is good when it promotes

cooperation. Whenever a whole block, even a block controlled by adverse ownerships, or a neighborhood, or wherever in fact, groups larger than one individual owner, agree upon a plan of management or of control, or of planning, then the limitations of permissive use should be made more elastic in the interest of working out what is good for the community. Planning means that the cumulative effect of the actions of many people can be so directed that the individual may benefit from the general benefit which is created by the community of action.

Now the proposed ordinance does not as yet go as far as I would like to see it go, or as far as I believe it will ultimately go in the direction of relaxing restrictions where good planning is offered or provided for. But the proposed ordinance is a far better and sounder foundation on which to build than is the present ordinance with its prohibitions and its yard and court requirements which have been circumvented so as to permit excessive bulk to be foisted upon this city. Are you aware of what is being planned right now for the northern part of the Grand Central station site?

When I spoke of community benefits, please do not think I was talking of either a utopian dream or of the type of state where government undertakes to plan or to provide what the governing group considers best for those complacent people who can be persuaded to give it support. No, no.



That government is best which provides a framework which helps citizens to band together to undertake tasks under democratic leadership which citizens acting alone would be unable to accomplish. We are preparing for a step here today, and we are pursuing our democratic processes in a way that will tend to restrain exploitation and clamp on the restrictions. I am for this ordinance not because it is perfect but because it is a step in the right direction.

MR. BRILL: Mr. Chairman, Members of the Planning Commission, my name is William B. Brill and I live in Manhattan. I am happy to be in the real estate and building business and I am offering my 20 years of experience in this line of business. I have built and managed and presently own property, both residential and commercial, in several states of the Union as well as the several boroughs of the City. As a practical businessman, as a practical realtor and as a practical builder I would like to support the Commission on this new zoning resolution.

I am convinced that this new zoning resolution is something that is necessary to the City and would be beneficial to the City. It will not hurt realtors and the builders one iota. Builders naturally deal with financial aspects of the building line. However, it is extremely important that they have an interest in civic affairs as well. I met one of these

men and I said "How do you feel about the new zoning law?" I was very pleasantly surprised to find that in about 99% of the cases, these men thought that the new zoning was a good thing. It was necessary for this City and so the only reason I came up here is to tell you this because I have heard some people say that some of the real estate boards are opposed to this thing.

I want you to know that there are many builders and realtors who do not belong to real estate boards, and I know realtors belonging to the real estate boards who are just as much in favor of the new zoning as I am, in fact, the majority of these builders, whether they are on the board or not, are very definitely in favor of this new zoning law. So, I just want to conclude by saying to Mr. Felt that this is the only thing we can do.

Commissioner Felt, it is in your care, and if you stop at this point you would have done a tremendous service to this community. However, I hope and I feel sure that you, along with the other members of the Planning Commission will do a great thing for them and for this City. Thank you.

MR. MOLLOY: Mr. Chairman and Members of the Board of City Planning, I am J.G.L. Molloy, a representative of the Greenwich Village Association. You

Molloy

asked us this morning to be brief. I am about to accept that request and comply.

Since we endorsed the zoning plan last spring, we thoroughly endorsed the present proposal but in that connection I would like to say this: We proposed certain changes last spring and I filed a memorandum and I am happy to state that in spite of what I have heard here today, that the Planning Commission considered these suggestions, discussed them with us and granted 95% of them; therefore, we are extremely grateful.

I would say that I have the privilege in representing a client here today -- my clients are the people between 14th Street and Spring Street, between Broadway and the Hudson River and on behalf of my clients, let me say this: they are almost to a man in favor of the zoning resolution. The people, perhaps they are considered little people, but they are wholeheartedly behind me, and I would just like to take another minute to go into the subject on the statement that has been made about the rush you are presently engaged in. In this morning's publication, you are accused by the past President of the Architects Council of New York of using steamroller tactics; setting up these hearings, rushing them through and rushing through the resolution.

When we consider the length of time that this has

Molloy

been before us, the time that you have given us here in this public hearing, in your offices, sir. I can do is to quote a famous statement of a famous seaman: "Patience and fortitude," you have certainly shown both and fortitude. Thank you.

Molloy

## STATEMENT FOR THE MUNICIPAL ART SOCIETY

By Geoffrey Platt, Chairman of the Zoning Committee

MR. PLATT: Mr. Chairman, Members of the Zoning Committee, I am Geoffrey Platt, Chairman of the Zoning Committee of the Municipal Art Society. My primary interest of the Municipal Art Society is the appearance of the City of New York. This interest is not limited to individual works of art or buildings, but includes the visual impact of neighborhoods, parks, open places, streets, and avenues. Preserving distinguished old buildings and places of historic importance is only half the picture; we are equally interested in recognizing the best of the new and encouraging still better to come. In other words, our special concern is everything that has made, is making, and will make New York a unique and magnificent city.

We have limited our study of the proposed new Zoning Resolution to those sections which affect our primary interest. The Municipal Art Society gives its enthusiastic endorsement to the proposed Resolution because we feel that through it the following four important objectives can be accomplished:

The first of these objectives is: To permit flexibility of design.

The present zoning resolution has tended to force stereo-typed designs. When architects have been able to design well within the permitted envelope, buildings of

interest and distraction have been produced. The many alternatives permitted by the proposed resolution will be very stimulating to the imagination.

The second objective is: To encourage extension of open ground space.

The proposed requirements for open space in residential districts and the proposed bonus system to encourage plazas and arcades at street levels will do much to increase amenities for owner, users, and the general public.

The third objective is: To stimulate development of harmonious neighborhoods.

The proposed mapping of various areas recognizes the character of existing neighborhoods and will lead to their harmonious development rather than their present disintegration. Confining the high-density residential

structures to the wide avenues, keeping them off the sixty-foot side streets, will contribute to this.

The fourth objective is: To preserve the character of many pleasant existing residential areas and sections of historic significance.

The reduction of permitted bulk in such sections as Greenwich Village and Brooklyn Heights will tend to preserve their unique and historic character.

We urgently recommend the adoption of the proposed Resolution.

#### NEW ZONING RESOLUTION

Statement by Miss Helen M. Harris, Executive Director of United Neighborhood Houses, in support of the Proposed Comprehensive Amendment of the Zoning Resolution of New York City, at a public hearing called by the City Planning Commission, March 14, 1960.

MISS HARRIS: Mr. Chairman, Members of the Zoning Committee, I am Helen Harris, Executive Director of United Neighborhood Houses. This comprehensive amendment to New York City's Zoning Resolution may well be New York City's last chance

to be saved from itself. Unless this sound zoning plan is adopted now, providing for a reasoned pattern of growth, we may in the not too distant future find ourselves a city of ghettos: both racial and minority ghettos and income ghettos; a city marked by extremes of luxury and poverty, with the people living in each extreme sharing only a sense of rootlessness.

Especially during the last five years we have experienced a speeding up of razing and re-building -- the razing being restricted to low and moderate rental dwellings, the re-building being featured by high-rising so-called luxury skyscraper apartments at one extreme and public low-rent housing at the other. The small amount of middle-income housing built recently has been almost entirely in large-scale cooperatives, available only to families who have money to invest, and these, too, have displaced low-income families without providing additional housing to meet their needs.

This planless growth, or change, has been leading us toward the destruction of normal neighborhood life, with communities of "egg-crate" dwellings replacing communities of people, with well-off families congested into "efficiency" apartments and families at the other end congested into SRO (single-room-occupancy) flats. This zoning amendment will give neighborhoods a new chance.

Therefore we urge the approval of the proposed

Harris



Zoning Resolution in the form in which it was published by the City Planning Commission in December. Representing as we do a federation of social service agencies of about 50 settlement houses and neighborhood centers in crowded low-income neighborhoods in Manhattan, Brooklyn, Queens and the Bronx, we are vitally interested in this measure which will promote appropriate city planning and minimize the overcrowding that is a root cause of the concentration of social maladjustments with which we must deal.

Blight and obsolescence of residential structures are to a significant extent attributable to density -- the overcrowding of living space. This has plagued the City for generations. The provisions in the proposed Zoning Resolution would minimize density not only in new structures but in conversions, with which we are particularly concerned. In addition we applaud the provisions of the proposed Zoning Resolution which will promote open breathing space and recreation areas in the block where people live, so children will not be forced to cross broad avenues to reach recreation areas.

This proposed Zoning Resolution is an attempt to use zoning as an instrument for city planning, for the orderly development of the City and the rational provision of city services. It is estimated that the Zoning Resolution

now in effect would permit a city of 55 million residents and 250 million daily workers. With such lack of control of land use, obviously there can be no provision for schools and other municipal services on a logical basis.

The fact, too, that there have been some 2,500 amendments to the present Zoning Resolution in an attempt to keep it abreast of the City's zoning needs evidences its inadequacy. Continued piecemeal amendment cannot take the place of a comprehensive and integrated zoning law.

Under the present zoning law dwellings can co-exist in the same area as manufacturing establishments. Under it are a good many so-called unrestricted districts in which there may be a jumble of different kinds of constructions. The elimination of these unrestricted areas as provided in the proposed amendment is in itself a great advantage. Homes and multiple dwellings side by side with manufacturing and other commercial uses with their noise, odors, vibrations, etc., can result only in blighted or slum areas. Furthermore the application of the proposed performance standards for manufacturing uses will reduce nuisances in residential areas.

During the 40 years since the enactment of the original zoning ordinance, a great deal has been learned

about effective land-use planning. The proposed new Zoning Resolution embodies these sound principles. We hope for its prompt enactment. Thank you.

BUILDING INDUSTRY LEAGUE

By Max G. Koenig, Executive Secretary of Building Industry League.

MR. KOENIG      Mr. Chairman, Members of the City Planning Commission, my name is Max G. Koenig. I am the Executive Secretary of the Building Industry League whose members include reputable builders who are responsible for millions of dollars of commercial and apartment structures in this City and also includes architects, engineers, manufacturers and material suppliers, catering to realty industry and the allied trades.

We are deeply concerned with the new comprehensive amendment to the existing zoning law being considered this morning. We are equally aware of the dedicated work of the City Planning Commission and have followed with close attention their prodigious efforts involved.

Indeed, we have worked closely with the Commission itself, offering what we feel constructive thoughts and suggestions. In such a massive effort when opinions are to be progressive with regard to aims and purposes; we cannot oppose its purpose in every entirety or merely be strong but valueless because we do not condemn. We merely ask that a realistic

Koenig

creation result from these proposals for change.

The Sunday Times publication of, March 13, quoted the Chairman as saying "...procrastination is a debilitating disease..." and it goes on to say "...that the greatest danger to our City is failure to take decisive action on zoning."

However, permit me to observe that procrastination as well as impatience truly are blending influences. They serve little purpose other than diluting logic and correct reasonable consideration. But what really is the great rush and compelling necessity for the demanding of the immediate adoption of a brand new zoning law, which is undeniable, and a concept and goal? It has taken this Commission and the consultants years in time and effort to produce this proposal for the comprehensive amendment submitted before this public hearing.

During its short life it has already been changed and approved as a direct result of hundreds of consultations; it answers interested groups and directly-affected persons. While the resolution area, goals and concept sought to be achieved by the City Planning Commission is laudable in nature, it interferes with the imagination and eye - witnessing appeal. We are not here concerned with a popularity contest. Zoning is a highly technical matter which affects the economic life of untold vital industries inside and out side of the City as well as real estate

industry. It affects the well being of hundreds of thousands of persons who derive their daily bread therefrom. Their very livelihood depends on a healthy economy.

We are of the considered opinion that this comprehensive zoning amendment will create newer and greater problems rather than be the panacea for realistic solution of present-day problems which it aspires to solve.

There can be no argument that a good zoning law should permit orderly and beneficial growth of a city. But we repeat, "What is the rush?" What is the compelling necessity to hurry through so revolutionary a proposal into law when reasonable time is needed for adequate study to clearly understand the effects of what we are doing? It should not be visionary alone. Technicians, architects, engineers, builders -- all have stated that the involved text and mapping presents thousands of details, needing more clarification, consideration and thought. These are the people who have to live and work realistically with zoning, to plan and produce badly-needed housing within the reasonability of our growing population to pay the economic cost of new construction.

It would be too late after adoption for realization to dawn that the beautiful city painted by the resolution - of wide-open spaces, of parks, reduction of bulk and density, floor-area ratios - not only all must be paid for but be able of realistic

achievement as well, without killing the goose that lays the golden egg.

What profits us to live in a palace - absent the necessities of life to enjoy it? Quick adoption merely would result in a long period of uncertainty and transition.

Builders, material suppliers, the allied trades, and the multiple thousands of people who make their living there would needlessly suffer hardship and privation without good purpose. Years must elapse without building because no one can authoritatively say what the new zoning provides until the courts have passed on it and interpreted it. The entire body of zoning law tested over the years will be thrown out of the window.

Builders, banks, mortgage loans - all must remain at a standstill because until clarification, great sums involved in building cannot be risked. Although the present zoning resolution is referred to as a 1916 zoning law, it actually was brought up to date in 1940 and is not so thoroughly out-moded as its critics would have people believe. It is no secret that builders, architects, engineers and industry technicians who understand the practical effects of the new proposals have in many instances indicated opposition. Certainly, this is not done merely to be obstructive.

There were no original consultations with informed groups of these categories to seek mutual understanding and assistance. It was only after announcement of the consultants' report that industry and technicians were invited to comment.

It seems unfortunate to wait to call the doctor until the disease reaches an incurable state but, fortunately, we are not yet in such a position. Haste really does make waste. Let's not rush when there is no necessity to hurry. If we do need a new zoning law, let's get a good zoning law in the first place, based on correct understanding and realistic principles rather than amend and change again and again. Now, viewed from this aspect, it must obviously be clear that where generalities can be applied to almost any existing situation, the specifics is where the rub comes in.

The comprehensive amendment will have the effect of driving out of business the average small and middle-class builder because planning will tend to be based on large assemblies and structures, promoting government housing in preference to private enterprise. It will discourage rehabilitation and renovation through limitation of the density provisions. It will not be feasible to improve and cut up large apartments for economic alteration and so provide additional living quarters. It will force a complete standstill on alteration projects.

The bulk and density provisions as they are applied to the boroughs of Brooklyn, Queens, The Bronx and Staten Island make building not necessarily an impossibility, but a costly venture.

Again, while everyone is for beautiful cities, open space, parks, and so forth, it is open to question whether everyone is willing, ready and able to pay the price necessarily involved in obtaining these laudable objectives. It has been demonstrated that building costs necessarily will rise, necessitating higher rentals and greater rent costs. Necessarily, the lesser the bulk the lesser the building. True, it will achieve a lesser density if strictly carried out, but at the same time it will affect labor productivity, demand for building materials, that will cut into the economy of the entire country at a time when business conditions appear to be halting in their continual progress during the last several decades.

As to non-conforming uses, it will terribly affect areas and structures where non-conforming uses are shown on the proposed mappings. For the next 25 to 40 years such existing structures will be on the shaky edge, and their economic productivity necessarily will decrease as the time for non-conforming utilization runs out. It will be virtually impossible to obtain adequate financing to carry such structures and, in effect, will promptly condemn them.



In conclusion, we respectfully urge that the respective positions advanced by the various realty organizations be taken into advisement before translation into law, that additional conferences be held with the particular view towards meeting the enunciated objections so that the time in the very near future will come when a comprehensive amendment can be presented that will have the blessing of the real estate industry, of the City Planning Commission and, indeed, all who have the interest of our City at heart.

CHAIRMAN FELT: Thank you very much, Mr. Koenig. Is Mr. Henlein present?

VICE CHAIRMAN BLOUSTEIN: Before Mr. Henlein commences, Mr. Chairman, there are two communications that should be made part of the record. One is a communication from Carson and Lundin, Architects, 425 Park Avenue, New York, New York, dated March 11, 1960, addressed to Honorable James Felt, Chairman, City Planning Commission:

"Dear Mr. Felt:

I am writing to advise you that our office is in favor of the proposed Zoning Resolution, which you are fighting so hard to have adopted.

We feel that the measures called for in this resolution are important if we are to save much of what New York means to the world.

The proposed Resolution

Koenig / Bloustein

provides for a healthy future growth of our city along lines that will permit a more beautiful and logical development, as well as protect investments in buildings already constructed. We fear that if present Zoning Regulations are allowed to continue, this city will lose that character for which it has been noted.

Yours truly,

Earl H. Lundin

I have another communication from I.M.Pei & Associates, Architects, 385 Madison Avenue, New York, dated March 14, 1960 which reads as follows:

Dear Mr. Felt:

This office has just completed a study of the Proposed Comprehensive Amendment of the Zoning Resolution of the City of New York.

We wish to express our appreciation for this excellent study made by the City Planning Commission and its consultants. We firmly believe that its enactment in

Bloustein

principle is essential to the future  
orderly development of our City.

Very truly yours,

I.M. Pei"

MILLARD HENLEIN : Mr. Chairman, gentlemen of the Commission, my name is Millard Henlein. I represent the Avenue of the Americas Association. I am slightly confused about something that was said here earlier by one of the proponents of the proposed ordinance, and that was to the effect - quoting Mr. Holden - I believe, that we should not be confused by reason but we should rely on our emotions.

Gentlemen, if that were the case we would certainly be here today in complete approval of this proposed zoning amendment, because we have the greatest regard for the Chairman and the members of this Commission. We think they have done a really outstanding job in trying to amend this resolution as it should be. However, we feel this: that while we favor such changes as a one-map system in place of the present three-map system, the separation of residence from manufacturing use districts, bulk zoning based upon reasonable and realistic formulae,

Henlein

all of which are fairly obvious and easy to understand. We do believe that the new resolution is so complex and difficult to understand and interpret that it most certainly would require a great deal more time for study than has been allocated.

We have heard today that we should not delay; that we must put this into effect immediately. However, there is, as you know much better than I, a great deal of misunderstanding about the new proposal or, perhaps, it might be better to say there is a great lack of understanding of it.

You will recall undoubtedly, Mr. Felt, the luncheon of the Real Estate Board about a month ago where about 800 of us real estate men, architects, engineers came and heard you presenting the pros and Mr. Barrera presenting the cons. We had come to that luncheon hoping to come away with some clear idea of what the new zoning proposals meant and what effect they would have on the City of New York. I think most of the people that were in attendance there will agree that we came away slightly more confused than we had been when we came in through no fault of yours nor of Mr. Barrera's.

One of our property owners called this morning. He owns a piece of property between 14th and 23rd Streets on the Avenue of the Americas. He said, "What can I do with this property under the new proposal? What zone is it in? What does it describe?"

Well, I gave it to him as very briefly as I could, and as well as I could understand it. He said, "I have had three different architects examining this property. I have three different stories from them as to what I can do with it and at least two of them have been down to the City Planning Commission talking to the planners, asking their interpretation of these regulations."

Now, Mr. Chairman and gentlemen, I submit, if this is a true case - and I am not making it up - it really happened ...

CHAIRMAN FELT: You and I have been on intimate terms for years now. I don't know why you could not have come to see me as you have on so many occasions and ask me this question. I answer so many questions and sit down with so many people whom I have never met before, and I would have been delighted to explain it to you.

MR. HENLEIN: I know that, Mr. Felt.

CHAIRMAN FELT: I offer you that as time goes on, as well.

MR. HENLEIN: Thank you, Mr. Chairman, I know that your office is always open to us and, believe me, if this had happened last week I would have been down there, but it did just happen this morning.

CHAIRMAN FELT: Oh, this all happened this morning, Mr. Henlein?

MR. HENLEIN: No, Mr. Chairman; this particular inquiry came in this morning.

CHAIRMAN FELT: That is hardly enough time.

MR. HENLEIN: But it does serve as an example of the confusion that reigns in connection with this proposal.

CHAIRMAN FELT: Mr. Henlein, after you conclude your remarks, I am going to have a member of our staff meet with you and explain just what can be done on this specific piece of property.

MR. HENLEIN: Thank you, Chairman Felt. That really is the conclusion of my remarks except for one thing:

We did ask, Mr. Chairman, when our Committee met with your group about a year ago at your office on the previous recommendations of Voorhees Walker Smith and Smith, we did ask one question which we think is all important to this whole proposal, and that was what effect the new regulations would have upon the assessed value of properties, particularly in the mid-town central business district of this City. I don't believe that there has been any answer given to that question, yet. We think it is terribly important that it be answered. Thank you very much, Mr. Chairman.

CHAIRMAN FELT: Would you want me to give you an answer now or would you want me to give you the answer later on? I will do it either way.

MR. HENLEIN: Whichever is to your liking, Chairman Felt; I will take it now.

CHAIRMAN FELT: Mr. Henlein, I would say that the passage of the Zoning Resolution will improve to a substantial extent the aggregate value of property in New York City. I do not want to go into what will happen in any particular district but the aggregate value of property in

Henlein / Felt

New York City will undoubtedly increase. Thank you very much.

I would like to read a communication which our Commission received from the Brooklyn Bar Association, signed by Lynn G. Goodnough, President, dated March 11, 1960:

Dear Sirs:

The Committee on Real Property of our Association has under consideration the proposed new zoning resolution, but as yet it has not made any report to our Board of Trustees.

The proposed zoning resolution in its present form was made public on December 21, 1959, after about nine months' work by your Commission and over two years work by your consultants, Voorhees, Walker, Smith & Smith. If adopted, this zoning resolution would vitally affect the social and economic welfare of the City as a whole and of course the Borough of Brooklyn.

There has not been sufficient time for adequate consideration of this proposed major change in the zoning of

Felt / Goodnough



our City. Therefore, on behalf of the Brooklyn Bar Association, I respectfully request that at least six months' additional time be allowed for study and consideration, to be followed by further hearings so that no final action will be taken by you until the public has a full opportunity to present its views.

This letter will be presented to you by James M. Glimm, Esq., Chairman of our Real Property Committee.

Sincerely,

Lynn G. Goodnough  
President

Even though Mr. Glimm is not present, I wanted to read this letter because we have read communications favoring the new Zoning Resolution, and I thought it would be appropriate to read this communication asking for delay.

GIOVANNI NISITA: Chairman Felt, Members of the Planning Commission, my name is Giovanni Nisita, President of the Eastern Queens Civic Council and Co-Chairman of the Federation of Civic Councils of the Borough of Queens.

Gentlemen, after listening to Mr. Lome, it would

be presumptuous on my part to either add or detract from his factual presentation and, inasmuch as we are limited for time, I wish to go on record to endorse every fact that Mr. Lome presented to you because of the fact that I know as a resident of Queens, especially since 1927 - I have lived at the same address - and we have gone through the same things that Mr. Lome presented to you. We have, in fact, in some square blocks in our area as many as three different sections, different zones, all within one square block. That is the chaotic conditions we have to put up with. We had to fight the armory, bus garages by the City and such like, and our only recourse has always been to go to court in order to get the actual facts presented and we were not very successful there, too. So, with that in mind, I wish to go on record that the Eastern Queens Civic Council, which represents about 2,500 families, wish to go on record supporting Mr. Lome's facts, and also the Federation of Civic Councils; and we wish that the new resolution will go into effect as soon as possible because we feel that is the only step we have in the right direction for the protection of the homeowners.

Thank you very much.

MAX M. SIMON: Mr. Chairman, Members of the Planning Commission, my name is Max M. Simon. I am here as

spokesman of the Architects Council of New York City which is the congress of all seven of the architectural organizations of this City.

The Committee of which I am privileged to be chairman, consists of delegates from each of the constituencies, plus a number of experts, numbering in all 18 men with a combined experience of well over 500 years. These men know the present Zoning Resolution, literally every semi-colon in it, and have spent the last ten weeks in studying the proposed Resolution, not thoroughly enough we'll admit, for 114 pages of text and 129 pages of maps that took three years to write and prepare can hardly be analyzed in ten evenings of volunteer work.

Be that as it may, we started our studies with the recognition that there should be a fresh approach to zoning, perhaps our present law is archaic and designed for the 25 x 100; we hoped that the new Zoning Law would be simpler; that it have a minimum of controls, and yet rigid enough to prevent unbridled overbuilding; that it encourage more light, air, and greenery in the form of plazas, arcades, front lawns, etc.; that there be some formula to discourage the all-too-familiar Babylonian ziggurat type of building in favor of simpler and less disturbing shapes; that there be some simple and workable formula for getting the cars off the streets.

If, to accomplish these objectives, an entirely

new zoning law was necessary, we would be for a new zoning law.

We also studied the proposed law with an eye to its workability. It must be remembered that we architects are virtually the only ones who will be working with it. If faulty clauses tie our hands, and generalizations open up loopholes, and ambiguities negate the intent of the law, then, we and the City will suffer. We may therefore be pardoned if we approach this very important legislation cautiously, if not critically, and devote a bit more time to details that are perhaps called for at a public hearing.

We regret to say, gentlemen, that as a result of our studies, we are of the opinion that this law is not yet ripe for passing, is full of weaknesses, is overly and unnecessarily complex, and will not give our dynamic city the elbow room to grow that it absolutely needs.

I shall not take the time to go into the detailed weaknesses that we found. A brief can be filed to cover those points but I do feel that some illustrations should be given and that the more important objections should be voiced.

CHAIRMAN FELT: In order that we may be clear on this, Mr. Simon, a number of architects, I think 8 or 10, so far, have spoken in favor of the Zoning Resolution. Are they part of your group or are they in another group?

MR. SIMON: I don't know who the 8 or 10 are. I have heard just one of them in the short time I've been here, but they are speaking as individuals, Mr. Felt.

CHAIRMAN FELT: Are you interested in knowing who they are or who spoke, or doesn't that interest you?

MR. SIMON: Yes. That would be of interest.

CHAIRMAN FELT: They are Francis Keally, William Lescaze, Max Abramowitz, Arthur Holden, Geoffrey Platt ...

MR. SIMON: Mr. Chairman, I think it is important for me to state, and I don't think I will be contradicted, that they were here as individuals and not as representatives of any of the architectural organizations.

CHAIRMAN FELT: That is what I wanted to clarify if that is the case. In other words, they spoke as individuals and not as representatives of your Association.

MR. SIMON: That is right, Mr. Felt. As a matter of fact, I am the only representative of the organized architectural organizations of the City of New York.

CHAIRMAN FELT: Then they - speaking in favor of the proposed resolution - spoke as they did as individual architects.

MR. SIMON: That's right.

CHAIRMAN FELT: Thank you.

MR. SIMON: I said that I will go into some details to illustrate the point that there are weaknesses that we have discovered, and I'd like to take the time, if I may, to mention just a few of them.

The definition of "Curb Level" ignores hilly sites. If the definition is permitted to remain, a six-story building could

conceivably be only five stories under the law.

The definition of "Floor Area" we think would lead to no end of dispute, particularly as to the meaning of "space used for mechanical equipment." I want to digress from my script here just to explain that point. It's very vital in enforcing this law or to understand the law just what is meant by "Floor Area". We found so many confusing statements in that section that I think we can be tied up in the courts for five years just clearing this point alone. For instance, what is meant by "space for mechanical equipment"? If I.B.M., for instance, should want to build themselves a building and fill it full of their equipment, actually not a square foot of that building could be construed as "Floor Area" because it will contain entirely mechanical equipment. That would also apply to laundries which contain almost entirely mechanical equipment. That point should be clarified.

CHAIRMAN FELT: The staff will make a note of that. I don't know whether that has been brought to our attention heretofore.

MR. SIMON: The definition of "Outer Court Recess," we discover to our chagrin, would not permit one that is at the end of a court - it would permit them only at the sides; or the definition of courts, in general, does not consider that they could be contiguous to each other; or that outer courts could not open off plazas of optional setbacks.

Or take this one which is really serious; the definition of "Street" includes private means of pedestrian or vehicular approach to buildings. Placed at one side of any

interior lot, it would convert the interior lot, by definition, into a corner lot; hence no yard required.

The foregoing deals with definitions only and is not a thorough study. All can admittedly be corrected, but if so much can be found wrong in so short a time, we feel justified in suspecting that the whole resolution is full of loopholes.

When we get on to the subject of Residence District bulk controls, we find ourselves enmeshed in the most complex set of restrictions imaginable. It consists of a series of variables, that are modified by other variables that in turn depend upon a "height factor" that is itself hypothetical. This could lead to so many possibilities and permutations that the authors of the law found it necessary to prepare four pages of tables to aid in the application of the regulations.

What it boils down to is that the authors of the resolution want taller buildings in order to get more open area, up to a point; beyond a certain height, the benefits fall off. However, if the architect provides more open space than the minimum specified, a bonus is provided in added area.

The result of all this is that the density control that the City Planning Commission makes so much to-do about is not a control at all. How can anyone foretell the number of people in an area in order to plan for sewers, transportation, schools, etc. if the possible density can vary 25% -- depending upon the height of the building, and in the process discriminate against the very

economical six story non-fireproof apartment houses.

Another hidden factor in the maze of tables is a discrimination against small rooms in so-called luxury areas.

Certainly it is a far cry from the law that we all hoped would be so simple that even a humble realtor could turn to its pages and know at a glance what he could do with his land.

Before getting off the subject of residential bulk control, I should like to touch on a related subject that we think is entirely untenable; the City Planning Commission declared that they wanted a very simple control over width of open spaces, so wrote into the proposed law that rear yards (all rear yards regardless of height, except with minor exceptions) were to be 30' wide; furthermore that recesses, if provided, were to be twice as wide as they were deep.

Oddly enough, there is no quarrel in the Architects Council with the severity of these requirements, but when the Resolution goes on to say that despite all that, no legally required window could look out onto any opposite wall or lot line less than 30' away, regardless of whether the window was lighting a Living Room or Bathroom, or regardless of the fact that the recess could be legal even if less than 30' wide, the Council decides to register its protest.

Simon



In the matter of parking facilities for residential buildings, the proposed resolution stipulates in Section 24-52 that parking facilities may be located 600 or 1,000 feet away from its parent building, apparently regardless of the zone. Thus a huge garage housing 500 cars and including two gas pumps and facilities for minor repairs could be located in an R-1 or R-2 district, the finest residential areas.

It is an extremely dangerous section which we prefer to believe was an oversight and not put in by design.

COMMERCIAL DISTRICTS: We had reason to hope that the new zoning law would really cut down on the myriad combinations of districts now existing. The City Planning Commission did in fact cut it down but there still remain 51 combinations of bulk, use, and parking requirements. An examination of the maps fail to enlighten us as to why there should be so many fine distinctions. Try as we will, we can't figure out why the S.E. corner of Jerome Avenue and Kingsbridge Road should be zoned C1-3.

while the S. W. corner is C2-3; or why Jamaica Avenue between 188th Street and 195th Street should be C1-2 and the avenue before and beyond that stretch should be C2-2; or why 34th Street in Manhattan between the Hudson and the East Rivers is zoned nine different ways.

These examples are not chosen as exceptions. Examine the maps and you will find this fine mosaic of districts the rule.

Nor can the Council go along with the 5 pages and 16 groups of permissive uses in Commercial Districts that more than anything else resemble the yellow pages of the Telephone Book. Pity the man who can't find his category in any of the lists. He is to be consigned to the limbus to await the verdict from the City Planning Commission as to where he belongs.

Seriously speaking, any law that severely limits the spots in which a particular business can locate, raises that business man's rents by limiting his field of choice. Furthermore, the high turnover of business relocation makes the policing of this law virtually impossible.

Also, a new and unforeseen type of business would have to come with hat in hand before the City Planning Commission to get himself categorized before he could get himself set up. More than likely, he would play the thing dumb and locate where he wants to.

The Architects Council prefers the prohibitive type of listing, but whether permissive or prohibitive, it would have

preferred much simpler and broader, less particularized categories.

An amusing by-product of too-line attention to detail that would stifle American enterprise is Section 34-411 that stipulates that all uses in a C1, C2, and C2-5 district be completely enclosed. That will practically doom the old and familiar candy store that quenched our thirst with "two-cent's plans."

On the subject of parking facilities in Commercial areas, the Council can't see the sense in the varying requirements and wonders how it could be predicted or policed.

For example, in the planning of a shopping center, would the architect know that a given space will eventually be occupied by a furniture store category C or a household appliance store category B, or a pool room category D? If the occupancy could by chance be predetermined, could it be guaranteed for the life of the building?

The Architects do not have much quarrel with the bulk provisions of the Commercial District Section. It is simple; the principle of plaza and arcade bonuses commendable.

It could only wish that tower privileges be liberalized to permit them up to 50% of area in lots up to 15,000 square feet; also that sky exposure plane limitations be entirely waived where the alternate system of setback is chosen. The Council feels strongly the FAR limitations are adequate safeguard against overpowering bulk.

It would like to see the bonuses for plazas and arcades further liberalized, as added inducement to its use, to stipulate

that for every square foot given up to plazas or arcades, a square foot be added to the lot area for purposes of computing gross floor area; also that these bonuses be granted in all districts -- residential as well as commercial.

In that regard, we can't understand why in a C1 or C2 district zoned within an R6 or R7, a commercial building can go up higher on the street wall than an apartment house. Despite the increased use of glass, they still throw the same shadow.

Manufacturing Districts: This section follows Commercial District principles quite closely as regards bulk regulations so what applies to one should apply to the other.

As regards use limitations, the City Planning Commission set up three types of areas: M1, 2 and 3, roughly defined as areas designed for light, medium, and heavy manufacturing.

We think that is good, but after again going into lists of very fine use distinction, the authors compounded the felony by setting up Performance Standards which go into great detail defining permissible noise, vibration, smoke and other particulate matter, odorous matter, toxic or noxious matter, radiation hazards, fire and explosive hazards, humidity, heat and glare.

That prompts the Council to question the wisdom of putting this entire section in a Zoning Law. This feeling is further reinforced by the fact that various City Departments have already set up standards of performance with which these Performance Standards might well be in conflict.

Another criticism is again that of very fine distinction. In the section on permissive noise levels, the law stipulates the maximum decibels allowed at various frequencies. We challenge any human ear to distinguish between 79 db, and 80 db in the frequency range 0 to 75 or between 47 and 49 db in octave band 2400 to 4800. Yet there is that distinction between permitted noises in M2 and M3 districts.

In the matter of Height and Setback regulations generally, the Council finds much that is good, some that is bad, and most that is unnecessary.

Elimination of dormer regulations is applauded; the permitted height of wall on the building line with no regard for the width of street is frowned upon.

Also good is the fact that the proposed law encourages the setting back of buildings to create front yards. Various inducements are offered to accomplish this, such as bonuses in increased floor areas, steeper sky exposure planes so as to minimize number of setbacks, etc. But the Council also discovers that in most cases the sky exposure plane cannot even be approached because of FAR limitations. That prompts the recommendation that where a building sets back a stipulated amount, that sky exposure plane limitations be entirely waived. It is only when a building occupies a very small percentage of the lot that there is danger of piercing the plane. But in that case, the advantage of open ground area is so

attractive, that small, high buildings are tolerable; in fact, the principle of towers is a recognition of that fact.

On the matter of the highly controversial Article V dealing with non-conforming and non-complying uses, the Council feels that desirable as it might be to eventually eliminate factories from residence areas, the provisions for so doing are inequitable and confiscatory and should be stricken.

Article VII, which deals with Administration is found to be full of undesirable features and loopholes. It is questioned whether the Board of Standards and Appeals should have the power to hear and decide appeals on its own initiative; also whether Section 72-23 B is not highly dangerous. It states that the Board may grant variances where it finds that the Zoning Resolution will not enable an owner to realize a reasonable return on his property or land. While we are not lawyers, and this is a legal question, it always seemed that questions of profit or loss were not considered ground for claims of hardship. This could truly open up a Pandora's box if found constitutional.

Section 72-23 and 73-60 stipulate that a building permit shall be obtained within six months of obtaining a variance or Special Permit. The Council feels that six months is hardly enough time to prepare and proceed plans through the Building Department and that this period be extended to one year.

Chapter 5 of Article VII makes no mention of public

Simon

hearings or proper notice before the City Planning Commission could adopt resolutions to amend the law. This should be corrected.

I should like to spend the next couple of minutes in a report on the Architects Council's feelings regarding the overall impact of the proposed Resolution on our City, setting details aside.

In general, I find no great revolt against the desire to establish an envelope or dome over the entire city in order to somewhat flatten out the actual peaks and valleys of building heights existing in the city. In fact, I sense a feeling of agreement that we should clamp down on the unconscionable and unbridled overbuilding of the Grand Central area. Nor do I detect any revolt against the thought of density control, in order to predict and plan for schools, sewers, water, transportation, etc., but the Council is critical of the way it took shape.

Actually, the maps merely froze the status quo, with some rare and commendable exceptions, with an "across the board" reduction of permitted density for all areas. We fail to see any recognition of the fact that certain areas, blessed with certain attributes such as proximity to good transportation, could develop into denser, highly desirable areas.

Would the freezing 20 years ago of the status quo then existing of upper east Manhattan have been healthy for the City? Or are we better off with the revival that is now taking place?

Who is so wise amongst the city planners as to foretell whether or not Jamaica in Queens, Fordham in the Bronx, or St. George in Staten Island would not, if permitted to grow naturally, develop into fine commercial areas of tall buildings? Yet, in all of the outlying boroughs, no area has been zoned with a FAR exceeding 3.4. If a dome is to be clamped over the city, shouldn't it be raised high enough to give growth and enterprise a little elbow room?

In short, the Council feels that the City Planning Commission did not really do an imaginative job of city planning. Walking the streets only is what the WPA did 25 years ago through its Real Property Inventory. It was only an inventory. In the light of all the foregoing, the Architects Council feels that the proposed Zoning Resolution, in its present form is not acceptable and respectfully urges that it not be submitted to the Board of Estimate.

It feels that all of what is good in the proposed law could be incorporated into the existing law, as witness the success with the E and F zones in Riverdale. The Council urges that it be tried before the city is saddled with this voluminous, untested and confusing document. Thank you.

CHAIRMAN FELT: Is Mr. Caniveri present?

Simon



PETER A. CANIVERI: My name is Peter A. Caniveri and I am Chairman of the Borough President's Planning Board for Greenwich Village, and I have a short announcement to make.

First of all, I would like to congratulate Commissioner Felt and the Members of the Commission for the very fine proposal that has been made for re-zoning New York City. Of course, it is unreasonable to expect that any re-zoning proposal would be perfect and it is also unreasonable to expect that we would have whole-hearted support of this resolution. I would like to announce that the Borough President's Planning Board is overwhelmingly in favor of the proposal, generally. Of course, there are some loose ends which we feel we would like to bring up at a later date - I think the date is March 22nd. Thank you.

CHAIRMAN FELT: That is right, March 22nd would be the date on which the mapping will be discussed.

MR. CANIVERI: Yes.

SIMON BREINES: Commissioner Felt, Members of the Planning Board, my name is Simon Breines. I am a partner in the firm of Pomerance and Breines, architects practicing in New York for the past 25 years. I believe I have some special qualifications to speak on this zoning proposal.

To begin with, my office, during the past year, has made a point of applying the proposed zoning to actual projects on our drafting boards. During this period, even though we have been operating under the existing rules, we have - in every case where we could - tried out the new rules and regulations. We encountered some technical difficulties, of course - they were new rules - but I can report that in relatively little time the draftsmen in my office, who were accustomed to working with the existing rules, found that the new regulations were clear and possible of use.

They find them professionally to be - I am glad to be able to report this - usable tools. I'm sure that when the first zoning was put forward the architects had the similar adjustment to make and, certainly, speaking for my own office - I can say that the adjustment is relatively simple and relatively practical. Indeed, I might add at this point that the difficulties that some of my colleagues detail with such vehemence, almost, astonishes me because either they haven't actually applied them or they must be difficulties which I think could easily be corrected. Certainly, in our case, we went down to the Commission. Men in my office visited with and conferred with members of the staff of the Planning Commission and where we had a difficulty, we got it straightened out. I think where there's a will there's a way.

When the consultants' report - that is, the Voorhees Walker Smith and Smith report - was issued a year ago, I was named Chairman of a special zoning sub-committee of the Civic Design Committee of the New York Chapter of the American Institute of Architects.

Members of this zoning committee met several times a week over a period of six months to analyze the new zoning and to make recommendations. A grant from the Arnold W. Brunner Fund made it possible to illustrate, print and distribute 1,000 copies of our report to our membership for informational purposes. When the Planning Commission's own draft appeared last winter, I was pleased to note that several of the A.I.A.'s recommendations were incorporated in the new draft. And I must say that the ones that were incorporated were, in the opinion of the New York Chapter of the A.I.A. and myself as the Chairman of that sub-committee, some of our most important and significant recommendations.

And I think that attests - at least we think so - to the readiness of the Commission to listen to reasonable suggestions.

Last winter, I became the representative of the New York Chapter of the A.I.A. on the Zoning Committee of the Architects' Council and I served on that Committee and I believe I am still a member of it. Now, I do not speak for that Committee, as you have heard. The Architects' Council, by the democratic process we have there, has come to some conclusions which have been given to this hearing. But I think the significance - and I speak, as I say, for myself - the significance to me was that by spending additional time on the Architects' Council Zoning Committee, I had a second opportunity and a very rigorous one, of examining the proposed zoning in great detail and in trying to understand it.

Out of this experience, personally, I feel that the proposed zoning is a worth-while document and will accomplish the aims set forth by the Planning Commission but I also think that in the process of working with these organizations I began to understand the nature of some of the opposition to it and, perhaps, I can best illustrate this with a true story. On one occasion, recently, I was debating with a very eminent colleague of mine, a specialist in zoning, who was vigorously opposing the amendment. At one point he said to me, "What's good about it?" And I said, "Well", to take what seemed to me a very obvious and interesting example, "take the bonuses which the proposed zoning gives the architect for the builder or owner of a piece of property, for leaving open space at the ground level. This surely ought to be an incentive," I said to him, "to get the type of building which architects and others have been admiring around the City, illustrated by the Seagram Building, by Lever House, by Canada House, and by other buildings that are more and more - I noticed the other day the new building on Sixth Avenue, in the Rockefeller Center group - even relatively little plazas are an encouraging sign of open space at the ground."

He said, "Why, that plaza bonus is a gimmick. It won't accomplish any of those things. I've made a special study of that. It's a nuisance to the architect, it will give nothing to the builder, and about the only person who I could conceivably think of as benefiting from the plaza and arcade bonuses is the man on the street. He might benefit." Well, to me, that's a very significant story.

Breines

It seemed to me - I am now not merely speaking as an architect but as a citizen - that the man on the street is precisely the man that we are addressing. I think people, sometimes, who examine the twigs and the bark on the trees too closely fail to see the purpose in the forest itself. Another incident, I won't go into the details, which I'd like to mention - to me, it highlights the nature of the opposition. It is this: I found several people, technical people, who were objecting to the new zoning and made extensive lists - you heard some of them - as to what was wrong. I pointed out, in discussing developments with one of these people, that in the Commission's own draft, the most recent draft of the proposed amendment, many of the objections to which he was referring had been taken care of. Corrections had been made to accommodate these very objections in the proposed draft.

He turned to me, exasperatedly, and he said, "Why, that Planning Commission would do anything to get this zoning passed." (laughter) And I can only conclude from a thing like that, from an incident of that sort, that some people just won't take "yes" for an answer. And I can only guess, frankly, why that is the case. As an architect, finally, who has spent a year studying and applying the proposed zoning, I urge that it be enacted without delay. But, in ending, I must confess that the reason I'm so strongly in favor of the zoning is not alone to get the zoning passed but I would like to see the Planning Commission get the zoning passed and get on with the job of planning the City as a guide for its future growth. Zoning, as we all know, is only a tool in that process. Thank you.

FREDERICK A. WYCKOFF

MR. WYCKOFF: My name is Frederick A. Wyckoff and I represent the Real Estate Board of New York. Mr. Chairman and gentlemen, once again this afternoon the expression of "the greedy landlord" raises its ugly head, and we heard more than once that the words, "landlord" and "greedy" are rather synonymous. I would like to explain insofar as the Real Estate Board is concerned, as the Executive Chairman of the City Planning Committee of the Board, that this particular Committee is comprised of mainly those who work in the management of real estate, real estate brokers, architects, planning and real estate consultants, and not more than one or two builders on the whole Committee, and very few landlords who own property, to my knowledge.

The Real Estate Board of New York strongly objects to the short time being allowed for the study of the new proposed zoning resolution with all its complexities. Such a drastic change in our zoning ordinance should have the proper time and attention given to it by all groups and individuals concerned. It has been impossible for our group to thoroughly digest the 3,000 and some odd words which comprise this resolution and to understand it in the space of three months, and to try to take care of our business affairs, too. Furthermore, the text is complex and requires study. More time should have been given before the hearings. Just what is the necessity for the rush act?

Chairman Felt publicly stated for release in the paper yesterday - I'm repeating what a previous speaker said - "We will reject the course of delay. Procrastination is a disease that can debilitate our City and distort its growth."

Wyckoff

If this resolution is as important to the City as he says it is, doesn't he believe the citizens should have enough time to study it and to give their honest opinion of it, or is the Commission worried that a postponement might stir up more opposition as the resolution is more thoroughly studied. We fail to see the necessity of a new resolution. We are particularly concerned about Manhattan with an assessed valuation of nine and a half billion dollars of taxable real estate. The effect of this proposed untried resolution will have on this island is a nightmare to think about. The present Resolution has certainly not stifled progress. Certainly, many changes might be made, particularly in the remapping of certain areas, parking requirements, and possibly more flexible bulk regulations. But we insist that these and other changes can be made within the framework of the present Resolution.

The proposed reduction in permissive bulk, particularly in the lower residential classifications, up to R-8, will play havoc with land values, assessed values, and building activities. There are many areas in fair to good residential districts that are proposed for R-7 in Manhattan. Our studies thus far show a general reduction in the permissive total floor area allowed of 20 to 50%. If you project this reduction in floor area in terms of reduced income, the results are most discouraging. A large percentage of these R-7 Districts in Manhattan are interior plots on side streets, now permitting in "B" Districts a ground coverage of 65%.

Certainly, permitting in the dense and highly populated area of Manhattan sufficient open space, the R-7 District in your proposed resolution limits the ground coverage to a maximum of 48% in six stories and 38% in nine stories.

One of the basic problems, particularly in Manhattan, with which I think we all agree, is to find decent housing for middle income families, in private housing, if possible. Manhattan has lost a large number of this middle-income group, which is the bulwark of our society. We have lost them to the other boroughs and to the suburbs for lack of good available housing facilities in decent neighborhoods. Our residential population is becoming limited to the wealthy and those in the low-income brackets. There has been, however, over the past year or two, more housing built in both a rental and cooperative basis by private enterprise. These have been built in secondary residential locations at rents within the range of middle-income families. This is a natural result of the general scarcity of available land for development in the primary locations. But even this building will be stopped by private enterprise with this proposed zoning because it will be economically not feasible.

Another matter that concerns us in Manhattan is the non-conforming provisions of the resolution. Many older properties in New York, not marketable or rented at very low rents per room, have been altered to smaller units and modernized, which has helped to stem the tide to a certain extent in certain slum areas.

Under the provisions of the resolution, many of these older properties would be non-complying. Such alterations to increase the number of dwelling units or rooms would be prohibitive. The incentive would be lost to owners to improve such properties unless sufficient increased rents could be obtained to warrant the investment. We are in accord with the general principle of



terminating at some point objectionable non-conforming manufacturing uses in residential zones. We do object strenuously, however, to the arbitrary, inflexible and confiscatory standards set up in this section in the termination of non-conforming uses, disregarding the character of the building, the tenancy, the owner's investment, and his right to the property. There are many more arguments which time does not permit me to mention.

We firmly believe that the present ordinance should be continued. Some of the recommendations expressed in the Commission's resolution are sound but many others are not. We would recommend that we amend the present resolution to effect such changes as may be beneficial to the City. Thank you, gentlemen.

CHAIRMAN FELT: Thank you, Mr. Wyckoff.

ELSA STEINERT

ELSA STEINERT: My name is Elsa Steinert. I am Executive Secretary to Washington Square Association. The Chairman of our Zoning Committee is home with the flu and Mr. Hehmeyer could not come and I'm substituting for him. I would like to say that the Washington Square Association approves the text of this new zoning resolution almost entirely, especially relates to the Village and Washington Square area. Insofar as the City as a whole is concerned, we believe it is necessary to have a new zoning resolution, and we think that this fills the bill and is an excellent document in almost every respect.

We firmly hope that in the cases where it would form a genuine hardship to the builders and the owners that it could be modified.

Steinert

Speaking for myself personally, the dire predictions of what terrible things are going to happen if this resolution goes through-- I don't see how they can have such foresight. I don't believe anybody knows what the future is going to be but it seems to me the orderly procedure of this new zoning resolution will not bring about the ruin of New York City. Quite the contrary, I really believe it is a necessary and an excellent document, and I hope it will be approved. Thank you.

CHAIRMAN FELT: You are speaking for the Washington Square Association, is that right?

MISS STEINERT: Yes, that's right. I am Executive Secretary of that Association.

MRS. EDITH LYONS

MRS. LYONS: Commissioner Felt, gentlemen, my name is Edith Lyons. I have been a resident of Greenwich Village for a number of years and a resident of New York for as old as I am. I am a member of the Housing Committee of the Greenwich Village Association. Norman Redlich, who is the Chairman of the Housing Committee, was unable to attend and has asked me to read his statement in support of the proposed zoning resolution. Mr. Redlich's statement is as follows:

"As a lawyer and businessman I have long been aware of the inability of the existing Zoning Resolution to meet the legitimate residential, commercial and industrial needs of New York. As Chairman of the Housing Committee of the Greenwich Village Association, I have seen the dreary consequences of an outmoded zoning system which permits a low-density, low-scale

area such as Greenwich Village to be cannibalized by the unrestricted influx of high-rise luxury housing. Our Committee has had to cope with the problem that was created when residential, commercial and industrial uses compete for dominance in unrestricted areas. We know that our experiences are typical of a City-wide pattern, resulting from fourteen years of piece-meal amendments to the 1916 Resolution. It has been evident for at least the past decade that a new zoning resolution was essential. Our Committee enthusiastically supports the new resolution because we feel that it can provide a reasoned pattern of growth for our City, and because in the area of our particular concern, it recognizes the benefit to our City of preserving the existing residential character of Greenwich Village.

As this Commission know, the Greenwich Village community, with its broad base of citizen participation, has been deeply concerned over the seemingly irresistible wave of new construction which threatens to obliterate a neighborhood long noted for its diversity, its culture, vitality and, above all, for its family-oriented stability. We were most gratified by the recent hearings before this Commission on the proposed amendments to the existing Zoning Resolution because they symbolized the recognition of those values which we seek to preserve.

The new zoning resolution offers the best foreseeable hope for the development of the type of City which we in Greenwich Village have fought to achieve -- a City where the home, the factory and the store can service each other without the senseless process of mutual destruction with which we are all familiar.

The resolution will provide the density controls which are vitally needed to guarantee space, light and air, not only for those who live here but for those who contribute to our industrial and commercial life and who also need a meaningful sense of order in their surroundings.

While proper zoning is but an element in the continuing effort to achieve these ends, it is perhaps the most essential one. The Housing Committee of the Greenwich Village Association is pleased to support this resolution and the spirit of city planning which created it and which will follow it through to final adoption."

May I say a word personally, Mr. Felt? When I hear "What is the hurry?", I think, "How high is up?", and I can think of a time ten years from now, twenty years from now, when people will be standing here - if this resolution does not go through - saying, "What is the hurry?" Because no whole perfect thing will emerge so that everyone in New York can stand up and say, "Yes, go ahead." There will never be such a time. And I shudder to think of my daughter or my granddaughter standing here and making the same appeal ten or twenty years from now while so much that is detrimental to the City continues to happen and happen and happen. That's my answer - just a personal answer to "What is the hurry?"

CHAIRMAN FELT: Thank you, Mrs. Lyons. Mr. Dapolito?

Lyons

ANTHONY DAPOLITO

MR. DAPOLITO: My name is Anthony Dapolito. I am President of the Greenwich Village Association, the oldest and largest organization in Greenwich Village. I am here today representing my organization and I will speak in favor of the proposed rezoning.

In 1916 New York City adopted the first comprehensive zoning in this country. Since then practically all large cities and most of the small ones have adopted zoning ordinances. Now, one would think that New York which was the first in this field would continue to be the leader but what has happened? Twenty five years ago, realizing that New York was no longer the leader, and its zoning was not serving the city as it should there were demands for the overhauling of the city's zoning ordinance. Committees were set up, reports were made, but no rezoning. In 1948 the Board of Estimate appropriated funds to retain consultants to formulate a new zoning proposal. The ensuing report was published in 1951. It was discussed, informal hearings were held, but still no rezoning. Here we are in 1960, another zoning proposal is now before our City for consideration and this time, I hope to God that this one is adopted.

New York City needs a new and modern set of zoning regulations, because it can no longer afford zoning which is obsolete and beyond repair. Our present zoning is inadequate and outdated. It is loaded down with more than 2,500 amendments and more than 1000 possible combinations of use, height, and area districts. We are now paying for the mistakes of the past.

One of those mistakes it seems is a lack of provision for the protection of aesthetic and historic values, which most certainly should

be included in the present resolution. New zoning is a must if New York is to grow intelligently.

I want to commend Chairman James Felt, all the members of the City Planning Commission and your entire staff for producing an overall zoning resolution which appears to meet the present needs and future development of The City of New York. There are some specific recommendations which we in Greenwich Village will submit on March 22nd, but on the whole you have done a splendid job.

CHAIRMAN FELT. Mr. Dapolito, did you have any mapping suggestions in mind?

MR. DAPOLITO: Yes, that's right, minor ones - a couple of M Districts we wanted to change to C Districts.

CHAIRMAN FELT: Very well, thank you, Mr. Dapolito.

MR. DAPOLITO: That the City of New York needs a new zoning resolution - there is no question. And there is also no question that you have done your best to meet this need. Thank you.

CHAIRMAN FELT: Is Mr. Battista present?

VITO BATTISTA

MR. BATTISTA: My name is Vito Battista, president of the Highland Park Homeowners Association, appearing here for the small property owners, the New York Council of Property Owners and the United Taxpayers Party. Mr. Chairman and members of the Commission, I just want to make a few observations. As an architect -- I also teach planning -- I have a little qualification, also, to discuss this subject. I agree that we should have, possibly, some zoning changes, to bring it up to date. I just want to make some observations about why I'm against it and the people I represent

Dapolito / Battista

are against it. First of all, we honestly believe that you cannot make a comprehensive study. I think the fee that you have paid so far for this study is \$150,000. Correct me if I'm wrong.

CHAIRMAN FELT: That's right.

MR. BATTISTA: Well, with \$150,000, Mr. Chairman and members of this Commission, you couldn't study a little part of lower Manhattan. In other words, what I'm trying to say is this: that for you to make a comprehensive study would not only take you a few years to do but will cost anywhere between three and five million dollars. Now, I believe that this study is incomplete in many phases and, yet, I don't want to be taking up your time because I agree with the speakers from the Real Estate Board. On the other hand, I couldn't help but overhear some of my colleagues in the architecture profession speak on behalf of this. But, as you know, some of these colleagues of mine are architects for very large corporations and for very large housing organizations. In other words, they represent - as I like to call them - the land barons. They represent the big owners - people who are taking six and eight and ten blocks in the City of New York. Naturally, when you do work for them your concept of planning has to be on a broad, open basis. What I'd like to know is: what architect has come here that represents the small homeowner, the small property owner? You'll find his point of view to be exactly in reverse.

I heard certain figures quoted here today -- I've heard 55 million - the City of New York will be built up to 55 million. We know that's not true. Nobody in his right mind would build up the City of New York to 55 million because the law of supply and

demand wouldn't allow it to. First of all, you couldn't get the people in and out. So that's just a figure of imagination. We also heard the figure - 2500 changes, already, of the zoning law - well, if there has been 2500, that shows it has been pretty healthy, the fact that you can bring it up to date. I don't see any objection to that.

All I can say in the short time that I'm going to be here to speak to you is this: that you should make a complete restudy of this law. I believe in good zoning as a plan but I don't believe in rushing something through. I think some of these various people who have come here today asking you to approve this law -- they will be the first ones to come back six months from now or six years from now and holler that the law is working in reverse.

The law, there is no doubt in my mind, will help destroy some of our economic values -- economic values that if one fellow doesn't pay, the home owner must pay.

Now, I've heard you, Mr. Felt, on many occasions speak on the question of public housing. You know what public housing has done in the City of New York. It has destroyed it. We talk about half-tax housing. You know what half-tax housing has done. It has just created a large tax burden on the small homeowner, whom I'm very much interested in, and the small property owner.

Now, we have seen some of the work of this Commission and, although I'd like to be very objective with my remarks, I have seen some of the work of this Commission and I can say honestly as a planner, it hasn't been too good in spite of what previous speakers have said. I can take my own civic center in Brooklyn which, today,

Battista



after spending millions of dollars to provide a park around the Supreme Court Building in order to soften up the aesthetics of this building in order to give it some warmth and color -- what do you think the Planning Commission and the authorities have done? And this is being done today, Mr. Chairman. You are putting a parking lot on the intersection of Adams Street and Fulton Street. Here is a park property on which we have spent millions of dollars and the Planning Commission is putting in a parking lot. Now, sir, if that's the kind of planning that we get; and if that's the kind of thinking that has gone into this planning study, I say it is wrong.

Now, I have great faith in the architectural firm of Voorhees Walker Smith & Smith. I think they are very competent. I think they probably weren't given ample time and ample funds. I don't think \$150,000, and you know it, Mr. Chairman, today with the inflation going on in salaries and technicians -- you can't do a job with \$150,000. Chicago, as was mentioned, took five to ten years to do it. It took many, many more dollars than you are spending today.

You should study this thing a little more closely. You will find, if you study it more closely, that in some areas there would be confiscation of the small owner because many small owners in some of these R-7's will not be able to do what you want them to do. They can't, and they will be taken over by some of these big so-called land barons. I only mention one thing, Mr. Chairman, and I mentioned this before in Brooklyn when you had the hearings -- in my own area where I live -- a small home area where you spend \$30,000 for a one-family house and what do you put there? You put a multi-story apartment house area, and the slope of the ground is at a 45-degree angle.

It's off and isolated into one area. I'd like to know who made a study in my area, if this was intelligently done. I pointed that out to you and I looked at the new revised book and it's still the same R-3, so that in one area you're trying to do one thing and in another area you're trying to destroy us. And I say this is wrong. There is no reason to go and do a half-baked job. I'm for zoning and I'm for good zoning. If this thing happens to upset the political timetable for somebody on this Board, well, I feel sorry.

I think we should take the community attitude - that if we're going to do a good job we have to give it ample study. You can't do a good job in the time allotted and in the amount of money you spent. In other words, you only get what you pay for, and if you only paid \$150,000 for this study, either Voorhees Walker Smith & Smith is subsidizing it or the study cannot carry out its objectives.

As I said before, the homeowners, the small property-owners in the various boroughs will have to pick up the tax tab if the economic status of certain parcels destroy themselves, as has been mentioned by the previous speaker. So, in conclusion, Mr. Chairman, I would appreciate it if you give this more study, in order to do this job and please, for God's sake, make sure you get into our area and don't put an apartment house area where you have one-family houses only and where you have restrictions, private "G" restrictions, as in our area. That's why I bought the house there. And here you come along and put an R-3 there, so will you please get your men in your department to do something about it.

That's my own personal objection. Please see to it that the small homeowner and the man who owns a small parcel in The City of New York is not being driven out of the City. Thank you.

CHAIRMAN FELT: Thank you, Mr. Battista. I am going to ask Mr. Smith to meet with you at this time. Mr. Smith, will you step down, please? Is Mr. Smith present?

LEIGHTON HARING SMITH

MR. SMITH: Chairman Felt, members of the Commission, my name is Leighton Haring Smith. I am a property owner. I have a small house on West 12th Street in Greenwich Village. I live in the house. I am a native son of Manhattan island, having been born in the Chelsea district, in London Terrace. My occupation is painting pictures and sculpting figures. I am in favor of any zoning laws which will restrain the present mania of demolition and construction of luxury apartments. I particularly liked the address of the gentleman who represented the homeowners of Queens. It was an inspiring thing. I particularly liked the denunciation of the petroleum interests. Other cities have laws to preserve their buildings and neighborhoods of charm and tradition and historic value. It is an encouraging sign, right here, the restoration of this beautiful old building - City Hall. An ideal city is one based upon neighborhoods, communities that have an intimate social structure. This has a definite influence on behavior, especially the behavior of the young. A case in point is the vandalism in those vast impersonal housing properties that have no community life or spirit.

Battista / Smith

The commercial elements that are conducting this era of demolition and luxury apartment building here in Greenwich Village where I live are invaders. They are invaders in every instance in every community. They come to make money, to profit on already existing values. It is a form of colonialism. The native inhabitant is dug out, bulldozed out as so much dirt in order to get out the gold. They want no hurry on your part but they on their part - you can't see them for dust - getting the demolition and the construction done to beat the deadline. There is a character built into a community by age and traditions. Artists and writers are usually the ones who appreciate the value of this character. Also, their presence in the community seems to add to its value. The money invaders come and capitalize and gather in the profits from their luxury apartments. Then the artists and the writers leave. Their old buildings have been demolished and we have the familiar story of the goose and the egg. The invaders boast of the money in increased taxes that they bring to the City, but the tourists bring more, spend more, and that eventually finds its way into the City's treasury. The tourists are not interested in new luxury apartments. Arnold Bergier said some weeks ago before your Commission, "Thank God for the Planning Commission." I echo that sentiment with the hope that maybe we can stop the wreckers and maybe also prevent the cruel destruction of traditions. Thank you, gentlemen.

CHAIRMAN FELT: Thank you. Does anyone else wish to be heard?

Smith

MR. DIETHER: I am speaking for Mrs. Doris Diether, my wife, a member of "Save the Village", residing at 107 Waverly Place, New York.

After studying the new zoning proposal text, I think you are really to be congratulated for your work, and commended for your courage. We in "Save the Village" thought we were going pretty far in our amendment, but we never dared to suggest the sweeping changes you envision in your proposal, although we certainly would have liked to. I hope I am still in New York when the ideal city you have foreseen is an actuality.

The general purposes as outlined in the text are, I am sure, applauded by most tenants, and have a far-reaching significance on the life and health of both the citizens and the city itself. Most zoning makes some provision for protecting its citizens against dangers like smoke and explosions, but the less obvious dangers, such as lack of light, air, privacy, open areas for rest and recreation, etc., are for the most part ignored.

I would like to mention a few things I found particularly interesting. The bulk requirements, coupled with the open space requirements, will mean that people in a building will have at least a little room outdoors, instead of a small yard or plaza being crowded with hundreds of people who live in that particular building, as at present. This is especially important to people who have children, but even those of us who don't will benefit.

I predict that using one "living" room as  $2\frac{1}{2}$  rooms for the purposes of lot area requirements in the density regulations will lead to larger apartments, and fewer of the one-room apartments now being built, which are much too small to be really liveable. This same regulation is going to be extremely important in conversions. Now, in the Village and

other areas of the City, there is a great problem because owners are converting three and four room apartments into small one room apartments in houses that are already overcrowded. When this new zoning goes into effect, this practice will be stopped, because the density control cannot be further exceeded in the existing buildings.

I was also pleased to notice that you have scaled down the commercial districts located within residential districts to the bulk requirements for the residential district within which they are found. We have been very worried that we might end up with low buildings on the side streets, and monster buildings on the avenues, which would overcrowd the neighborhood, and cut off light and air from the small side-street buildings. In our zoning amendment we wanted to ask for this, but were worried that it wouldn't be passed if we did.

I have heard several objections to the performance standards for manufacturing as being hard to administer, but after reading the text I think the Commission has set up fairly good safeguards and methods of testing the performance, which make these arguments rather over-emphasized.

I found one printing error in the text, which I want to bring to your attention. On page 53, Section 33 411, "In C-1 or C-2 districts", "Alternate required front setbacks", R-6 has been omitted. I believe this should be inserted just before R-7.

I had only two objections to the text, which I will take up now. On page 36, Section 25-23, "Provision of Public Facilities in Connection with Large-Scale Residential Development, If Additional Facilities are Needed", I question why the building plans are automatically approved after three months if there has been no provision made for the additional public facilities required. If the development is going to create the need for

more schools, playgrounds, etc., I think the approval of the plans should be held up until provision is made to provide them whether this takes two months or six months. I think the words, "within a period of three months" in (a), and all of (b) should be deleted.

My other objection was in the section on variances, Section 72-21 (d) (page 94). This states that "the purchase of a zoning lot, subject to the restrictions sought to be varied, shall not itself constitute a self-created hardship." If a person buys a parcel of land on which he knows restrictions exist, and then seeks to have such restrictions varied, I would definitely consider this a self-created hardship. If a person wants to use property, he should buy a piece on which such restrictions do not exist, so that he has no need to apply for a variance.

Outside of these two minor points I found no objection to the text of this proposal. I am more than eager to see it passed and go into effect as soon as possible. I think the proposal is fair to the owners and landlords, and more than fair to the people who live in this city. I personally want to thank you for your foresight and realistic approach to the problem. Thank you.

CHAIRMAN FELT: Thank you. Does anyone else wish to be heard? If no one else wishes to speak, we will recess this hearing.

SECRETARY MALTER: On recessing this public hearing until tomorrow, March 15th, at 10 A.M.: Chairman, Vice Chairman, Commissioners Livingston, Orton, Sweeney, Provenzano, Acting Commissioner Constable. This hearing stands in recess at 5:30 P.M. until 10 A.M. tomorrow morning, when it will be continued.

\* \* \* \* \*

Diether / Felt  
Malter

GB