

Part I: Why Zoning?

CITY OF KELLER

A solid green horizontal bar at the bottom of the page.

1871

Great Chicago Fire

Structures built quickly, cheaply, and in close proximity to keep pace with the city's exponential growth.

All buildings, sidewalks, and even roadways constructed of wood, creating the perfect tinder for the Chicago Fire.

The fire burned from October 8 until a rain storm October 10, 1871:

- Destroyed more than 17,000 buildings and 73 miles of street – damages of more than \$1 billion in today's dollars
- Left 90,000 residents homeless (one in three of Chicago's total population)
- An estimated 300 deaths



1872-1879

The Great Rebuilding

The effort to construct a safer urban center that attracted big businesses, innovative buildings, and new styles of architecture was called The Great Rebuilding.

Construction had to incorporate fireproof materials (primarily brick, stone, marble, limestone, terra cotta clay for roofing tiles, and steel girders to create frameworks for the taller and first-ever skyscrapers). Spacing and uses were taken into consideration.

COMPLETED 1873

COMPLETED 1873

GRAND HALL AND ROTUNDA.

TROPICAL GARDEN ON THE ROOF.

GRAND STAIR CASE.

(COST TO BUILD \$2,250,000.)

(COST TO FURNISH \$575,000.)

GRAND PARLOR

CONDUCTED ON THE
European & American Plans.

THE PALACE HOTEL OF THE WORLD

CHARGES
NO
HIGHER
THAN OTHER
FIRST CLASS
HOTELS.

ROOMS
RENTED
WITH
OR
WITHOUT
BOARD.

GRAND PARLOR

GRAND HALL AND ROTUNDA.

GRAND STAIR CASE.

GRAND PARLOR

CONDUCTED ON THE
European & American Plans.

MAIN DINING HALL.

READING ROOM.

RESTAURANT.

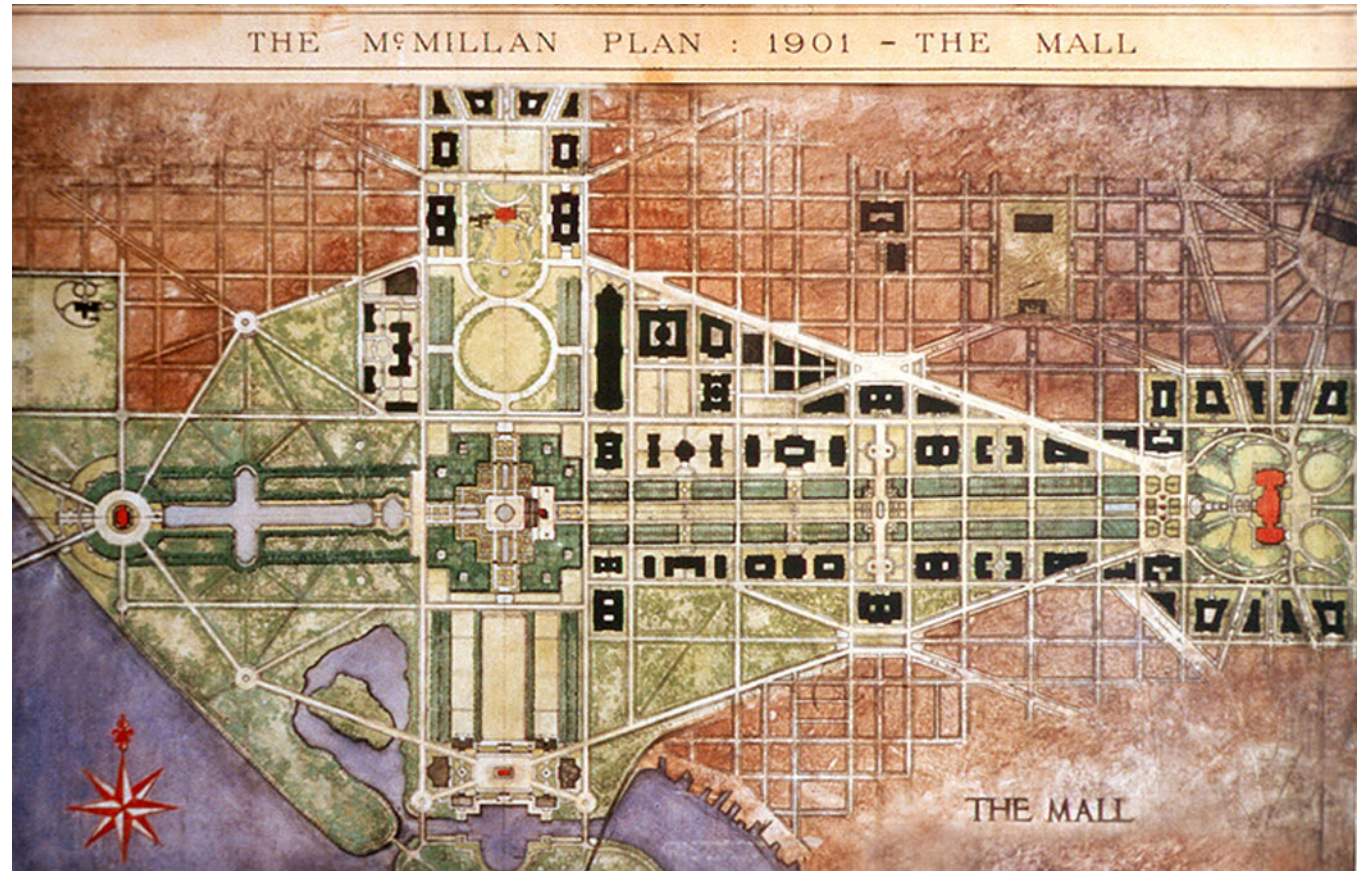
POTTER PALMER, **PALMER HOUSE, CHICAGO.** OWNER & PROPRIETOR.

1890s-1920s

The idea of organized, comprehensive urban planning arose in the United States from the **City Beautiful** movement, which claimed that design could not be separated from social issues and should encourage civic pride and engagement.

City Beautiful practices focused on paving streets, adding sidewalks and lighting, trees, gardens, and public parks with steady maintenance for residential areas.

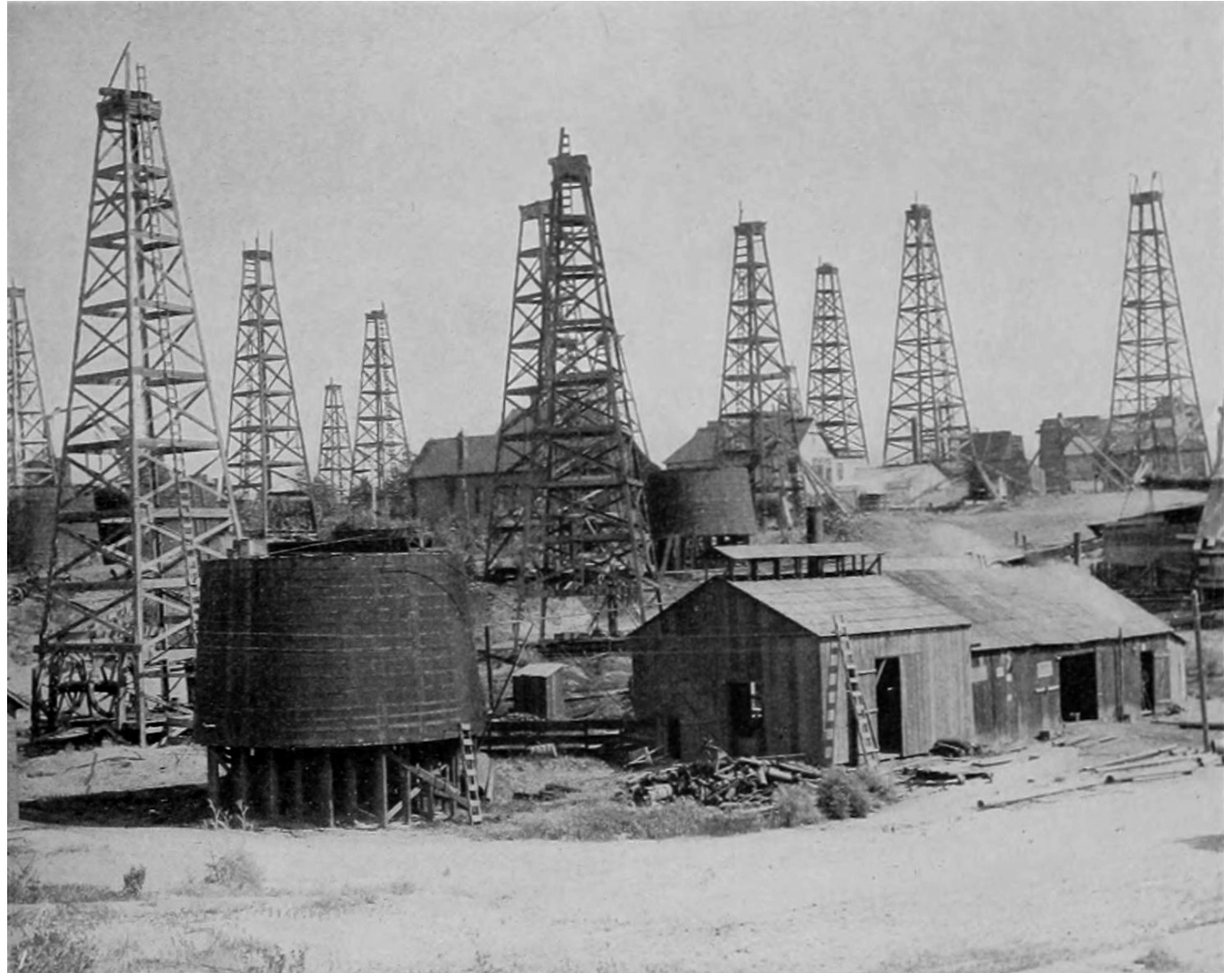
The McMillan Plan of 1902 redesigned the National Mall after the green, monumental European capitols as the premier example of City Beautiful practices.



1908

Los Angeles Zoning Ordinance

First zoning ordinance in the United States. Divided the city into eight industrial and three residential districts, and required businesses located in residential areas to relocate – no grandfather status provided.



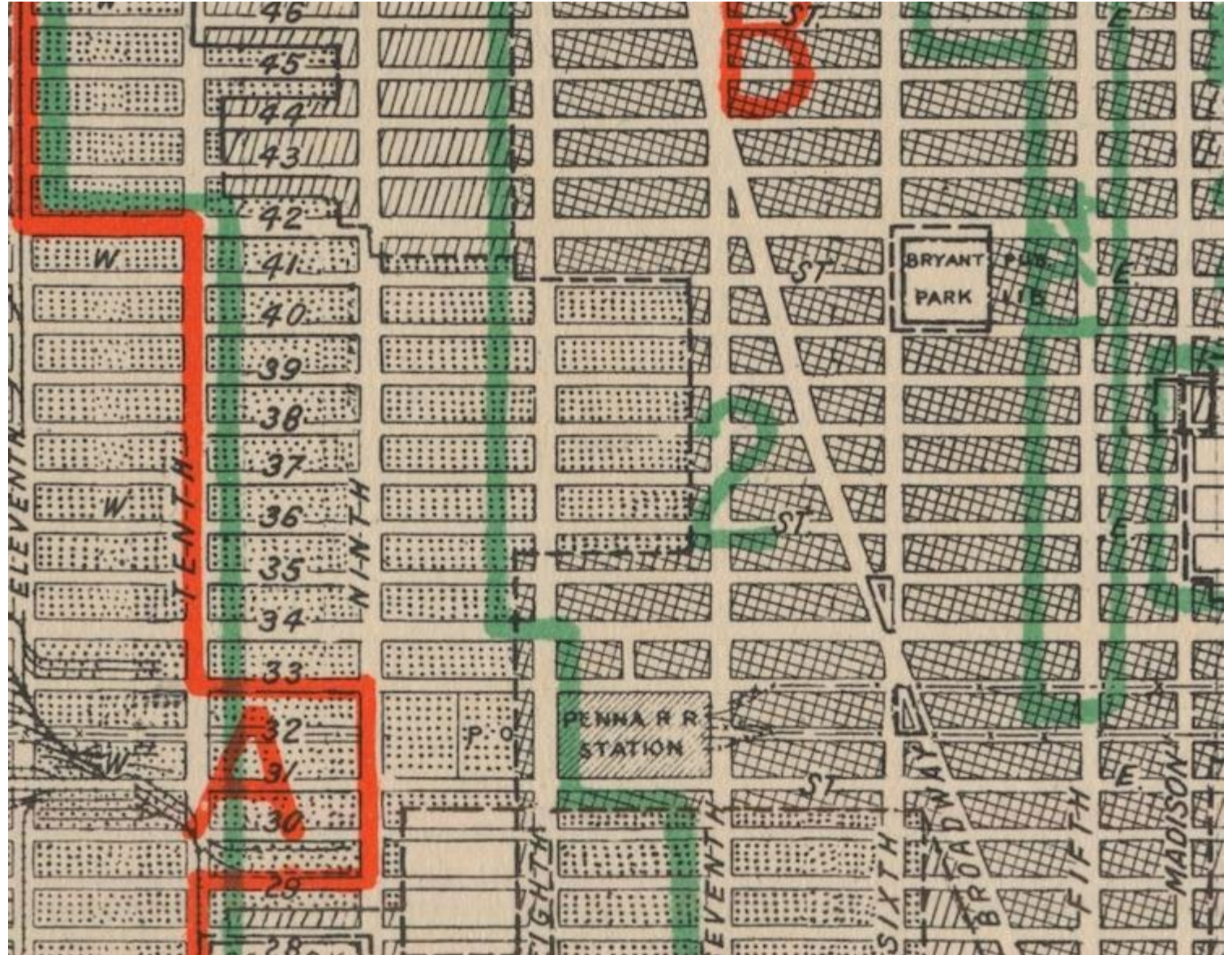
OIL DRILLING OPERATIONS IN LOS ANGELES - 1905

1916

New York City ZR

Adopts first citywide comprehensive zoning code in response to concerns about overdevelopment. The ordinance is considered the genesis of the zoning movement.

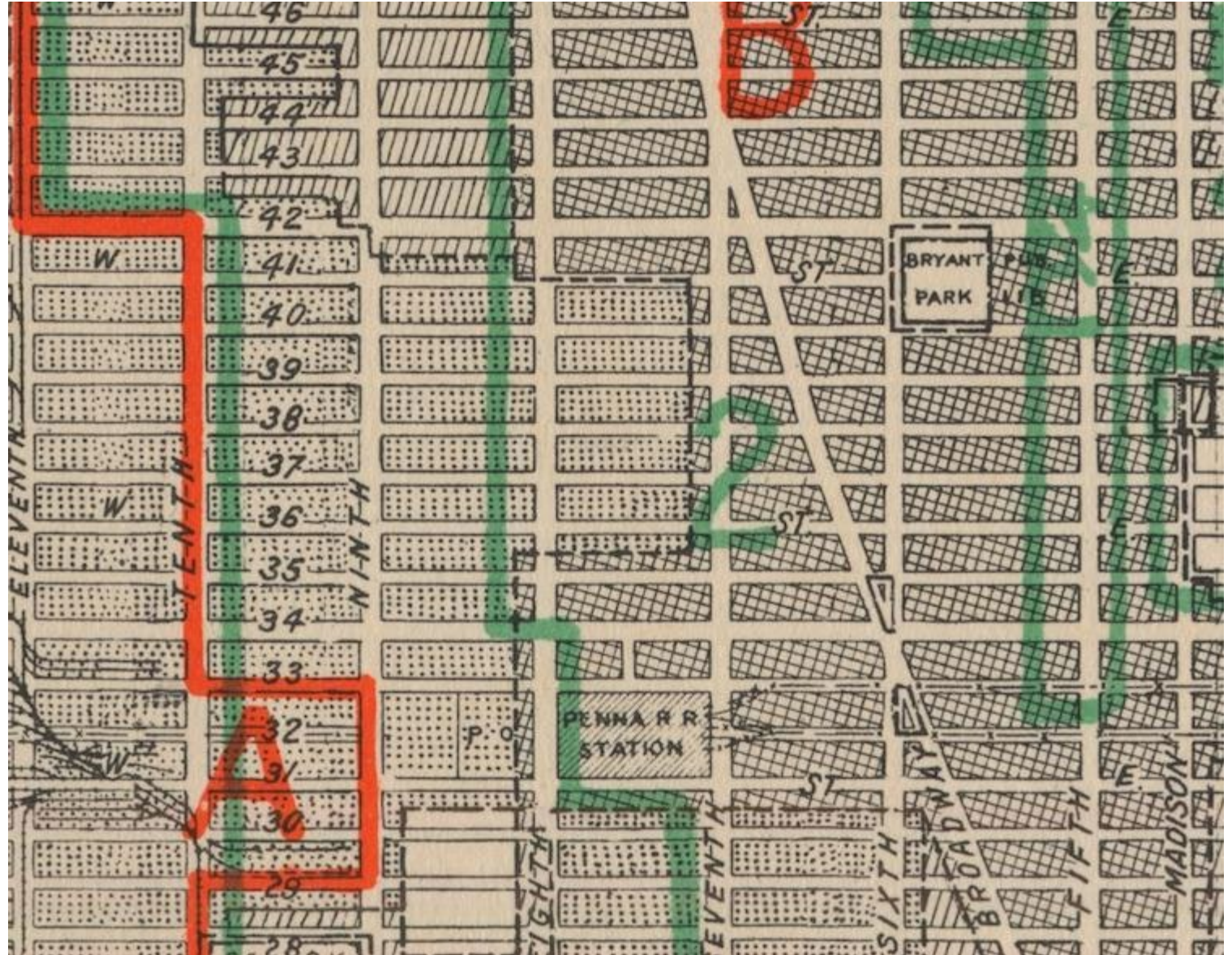
The document divided the city into zones based on the primary activity of the area and created building height and setback guidelines for each zone.



1921 –
HAPPY 100th!

SZEA – Standard State Zoning Enabling Act

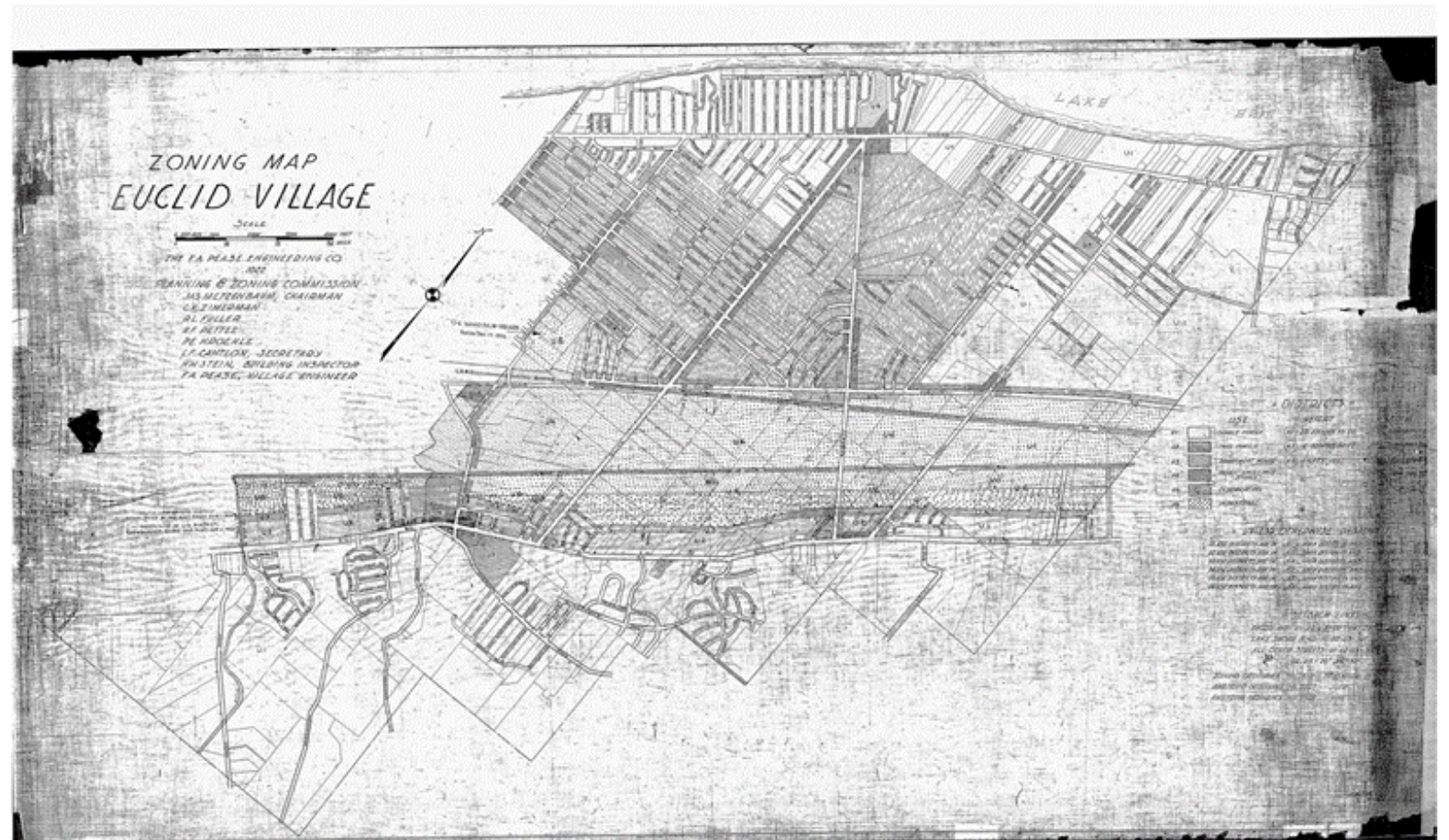
Herbert Hoover appoints a Task Force to draft the nation's first model state zoning and planning enabling acts. Allowed legislative bodies to establish zoning commissions to advise it on initial development of zoning regulations.



1926

VILLAGE OF EUCLID V. AMBLER REALTY

The U.S. Supreme Court landmark case established the principle and practice of land-use zones in the U.S. by finding that before a zoning ordinance can be declared unconstitutional, it must be said that its provisions are clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals or general welfare.



1926

VILLAGE OF EUCLID V. AMBLER REALTY

Euclid, a suburb of Cleveland, passed a zoning ordinance excluding undesirable uses.

Ambler claimed that Euclid abused its police powers by acting in an arbitrary and capricious manner thus violating Ambler's property rights under the 14th Amendment.

However, the Supreme Court upheld Euclid's ordinance on substantive due process grounds as a valid exercise of its police power, because the ordinance was not found to be arbitrary and capricious.

Decision is deferential to local governments.

"Euclidian" zoning born: the concept of separating incompatible land uses.

Euclid adopts Zoning Ordinance

Uses

U-1: single family dwellings, farming, public parks, etc.

U-2: extended to two-family dwellings

U-3: includes apartments, hotels, churches, schools, libraries, museums, etc.

U-4: includes banks, offices, studios, fire and police stations, restaurants, theaters, retail stores, wholesale stores, etc.

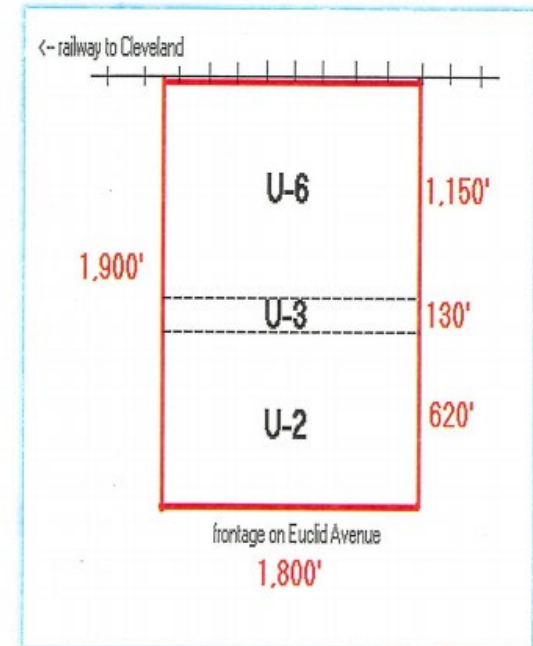
U-5: includes billboards and advertising signs, cold storage plants, dry cleaning, blacksmiths, repair shops, etc.

U-6: includes plants for sewage disposal, garbage incineration, scrap storage, aviation fields, cemeteries, penal institutions, manufacturing and industrial operations, etc.

In U-2 district, U-1 and U-2 uses allowed, in U-6 district, U-1, U-2, U-3, U-4, U-5 and U-6 uses allowed

Source:

<http://srufaculty.sru.edu/james.hughes/215/euclid.htm>



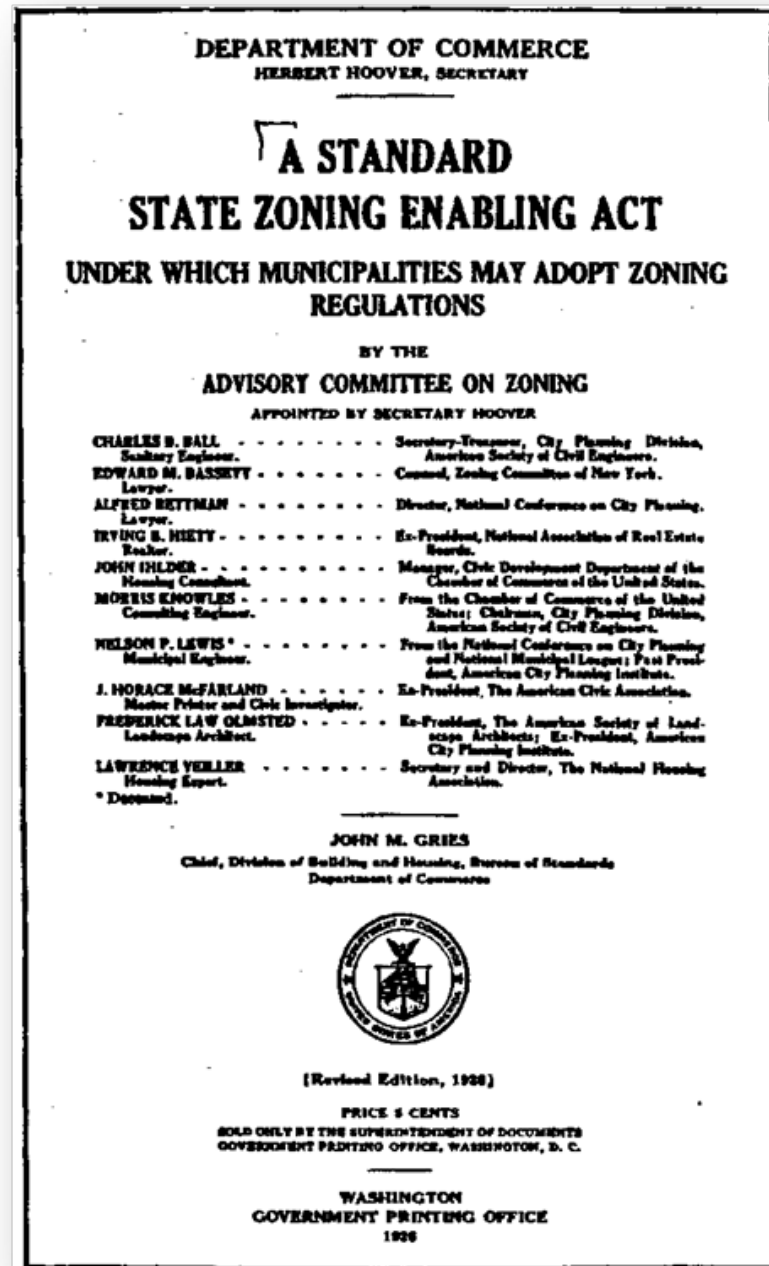
1926

Standard State Zoning Enabling Act (SZEA)

SZEA delegated zoning power to local governments:

- Imposed limits
- Established procedures for amendments, special exceptions, and variances
- Created Zoning Board of Adjustment
- First use of “in accordance with a comprehensive plan.”

Including Texas, 46 states adopt some form of the SZEA in 1927.

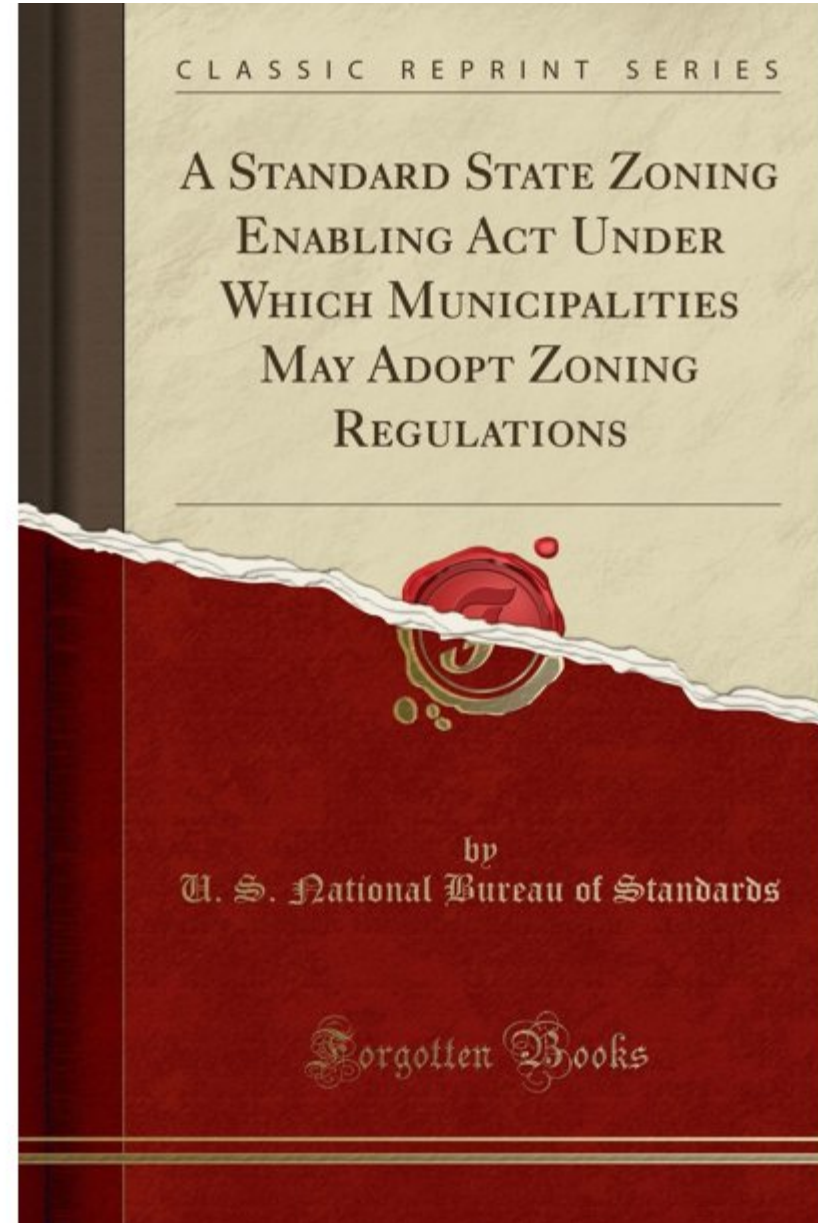


1927

**Texas' Version of SZA -
TZA**

NO zoning power delegated to
counties.

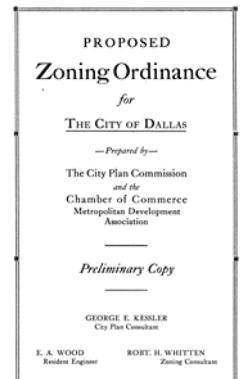
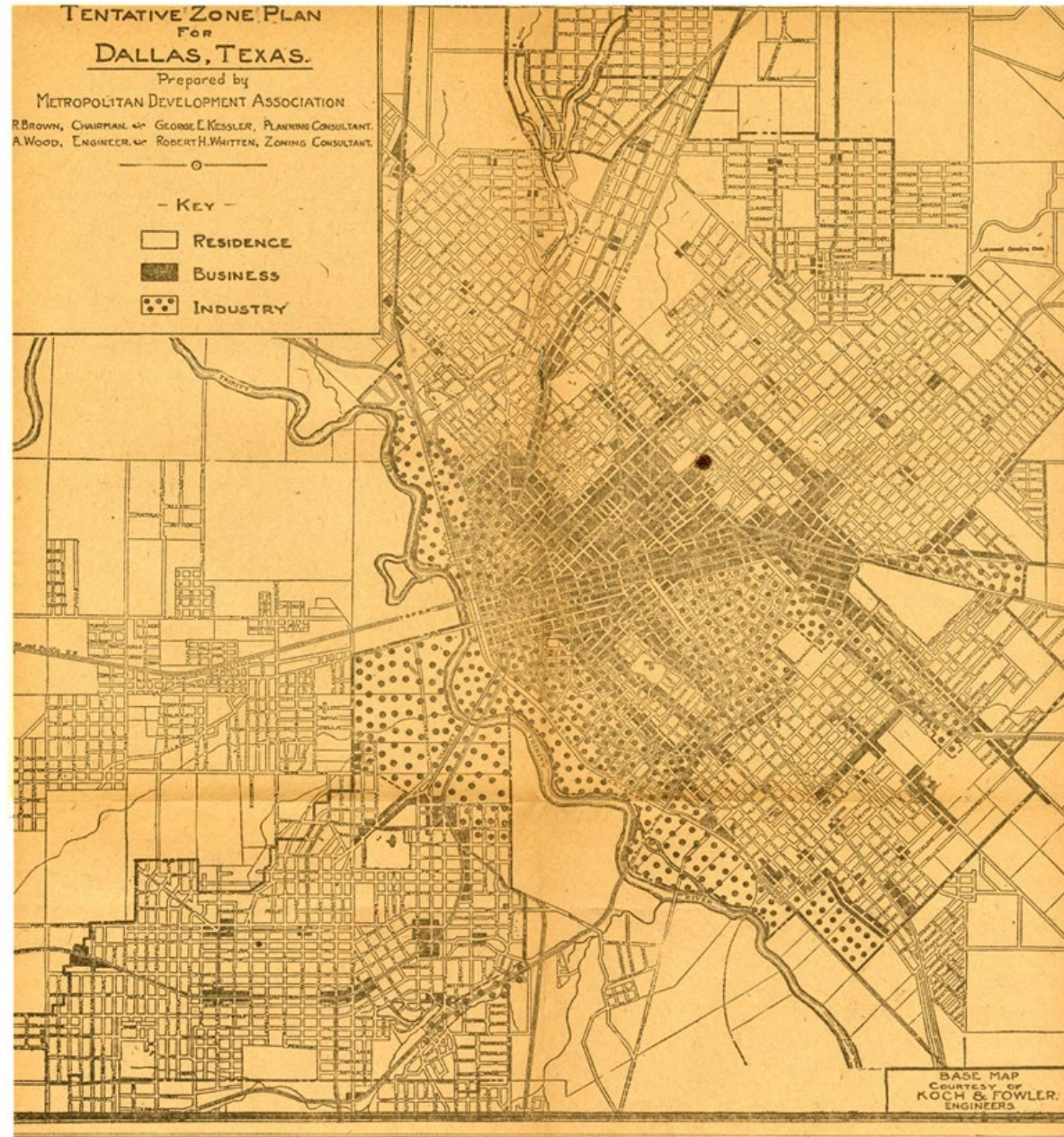
Zoning powers for municipalities
upheld in *Lombardo v. Dallas* (1934).



1934

LOMBARDO V. CITY OF DALLAS

The Texas Supreme Court upheld the Dallas Comprehensive Zoning Ordinance and the Texas Zoning Enabling Act, and validated the zoning statutes of the state and the zoning ordinance of the City of Dallas.



Lombardo

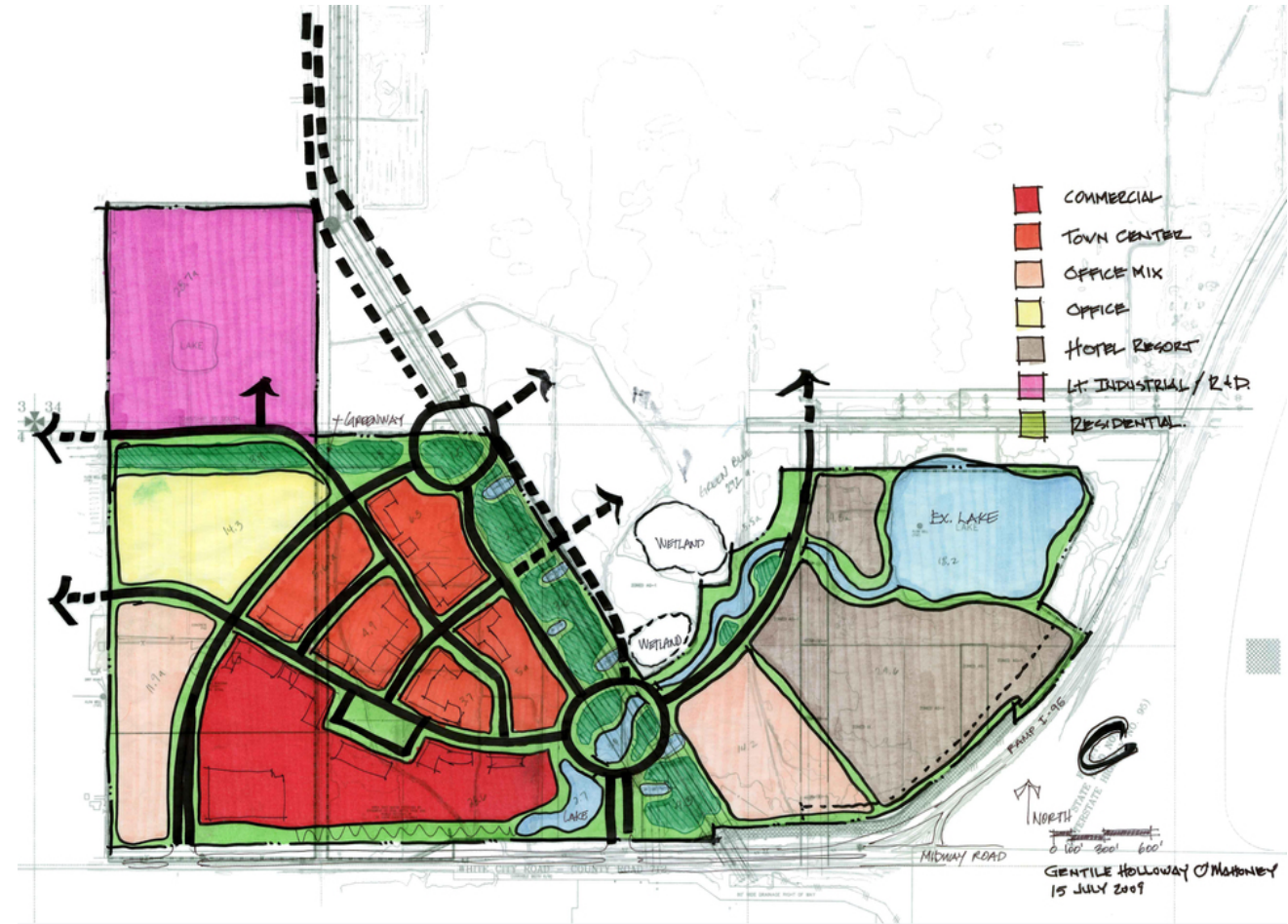
“The language used in the State zoning statute (R. S., 1925, Art. 1011b) to the effect that municipalities may be divided into districts and the city may regulate and restrict the kind of buildings to be constructed in each district, **is sufficiently broad to authorize a town, adopting said statute, to exclude business enterprises and oil and gasoline filling stations from a residential section.**” *(Emphasis added.)*

<https://casetext.com/case/lombardo-v-city-of-dallas-et-al>

What is zoning in a nutshell?

Comprehensive approach for how, what, and where something may be built.

Determines whether a building may be used for trade, industry, or residential purposes.



What may a Texas municipality regulate?

The governing body of a municipality may regulate:

- the height, number of stories, and size of buildings and other structures;
- the percentage of a lot that may be occupied;
- the size of yards, courts, and other open spaces;
- populations density; and
- the location and use of buildings, other structures, and land for business, industrial, residential or other purposes.

What is zoning's purpose?

Section 8.01 - Zoning Regulations

The zoning regulations and districts as herein established ...to promote:

- Sound development
- Health, safety, morals and general welfare
- Places and areas of historical, cultural or architectural importance
- Lessen congestion
- Safety from fire, panic and other dangers
- Prevention of the overcrowding of land and undue concentration of population
- Transportation, water, sewerage, parks
- Character of each zoning district
- The most appropriate use of land throughout the city

What is city staff's role related to zoning?

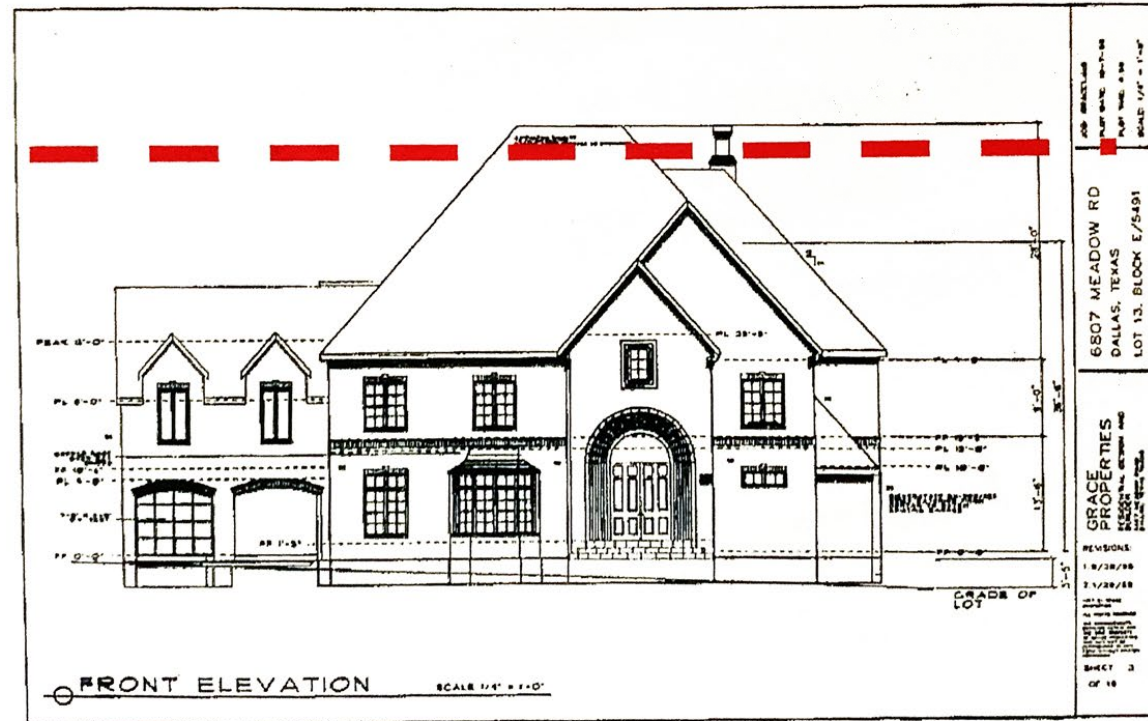
- Comply with all notice requirements
- Review request for compliance with:
 - Future Land Use Plan (FLUP), AND
 - existing ordinances, AND
 - good urban planning practices
- Communicate City Council and community goals to applicants
- Be the liaison for P&Z and City Council
- Provide professional advice to policy makers (though staff *does not make policy*)
 - Note: An administrative official of a city cannot approve a zoning variance

“Looks a little high”

2003

CITY OF DALLAS v. VANESKO

“In this zoning case, we determine whether a city can enforce a zoning ordinance against a property owner whose substantially completed new home has been built in violation of the ordinance, even though the city had given preliminary approval to the owner's building plans. We conclude that it can.”



PROPERTY OWNER: DOUG & GRACE VANESKO
SCALE: 1/4" = 1'-0"

What is the Zoning Board of Adjustment's purpose?

- Hear appeals alleging error in determination of an administrative official.
- Hear special exceptions required by the zoning ordinance.
- Grant some variances. Variances considered include:
 - Setbacks/ build lines
 - Height
- Cannot grant variances to:
 - Use
 - Structure size
 - Lot coverage
 - Site Plans/Plats

Zoning Board of Adjustment and Variances

- Variances sanction violations of the strict technical terms contained in a zoning ordinance.
- Grant variances only if:
 - not contrary to public interest AND
 - literal enforcement of ordinance would result in undue hardship AND
 - spirit of ordinance is observed AND
 - substantial justice is done

Zoning Board of Adjustment and Variances

- Variance: Permission to depart from the literal requirements of a zoning ordinance by virtue of unique hardship due to special circumstances regarding a person's property. [Black's Law Dictionary]
- Authorization to a property owner to depart from literal requirements of zoning regulations in which strict enforcement of the zoning regulations would cause undue hardship.

Basis for ZBA to Grant a Variance

- A variance may only be granted if an unnecessary hardship exists.
- “Unnecessary hardship” does **NOT** include:
 - Property that cannot be used for its highest and best use;
 - Financial or economic hardship;
 - Self-created hardship; or
 - The development objectives of the property owner are or will be frustrated

What is the P&Z's role related to zoning?

- Recommend zoning district boundaries and related regulations for each district
- Hear special exceptions required by the zoning ordinance
- Recommend variances only if:
 - not contrary to public interest AND
 - literal enforcement of ordinance would result in undue hardship AND
 - spirit of ordinance is observed AND
 - substantial justice is done

What is the City Council's role related to zoning?

- May approve or deny the application
- Requires $\frac{3}{4}$ vote (Super Majority) if 20% or more of the property owners within 200 feet of the affected property oppose the zoning change request
- Council consideration is the legislative determination to promote public health, safety, morals or general welfare, and protect and preserve places and areas of historical, cultural, or architectural importance and significance

What does the City Council consider to meet the ordinance requirements?

- 1) Whether the uses permitted by the proposed change will be **appropriate in the immediate area** concerned and their **relationship to the general area and the City as a whole**, and **in compliance with the Future Land Use Plan**.
- 2) Whether the proposed change is in accord with any existing or proposed plans for providing streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings. [Infrastructure check.]
- 3) The **amount of vacant land currently classified for similar development** in the vicinity and elsewhere in the city, and **any special circumstances which may make a substantial part of such vacant land unavailable for development**.

What does the City Council consider to meet the ordinance requirements?

- 4) The **recent rate at which land is being developed in the same zoning classification** as the request, particularly in the vicinity of the proposed change.
- 5) **How other areas designated for similar development will be, or are unlikely to be, affected** if the proposed amendment is approved.
- 6) Any other factors which will **substantially affect the health, safety, morals or general welfare**.

Stay Tuned for Part II – Zoning Application in Keller
