SUBDIVISION REGULATIONS

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Our cities are assemblies of subdivision plats,
growing by the subdividing of agricultural or vacant
land on their outskirts. Once laid out and built upon
the basic pattern of a subdivision plat becomes
frighteningly permanent, the one in which this building
is located, for example, being about 350 years old.
The limited experience that we have had with urban
renewal to date gives evidence of the great cost re-
quired to do away with an old plat that has been built
upon and replace it with a new and better one, such
costs frequently amounting to around $70,000 per acre.

Reorganization of built up areas through zoning,
urban renewal or otherwise is a slow, difficult, and
expensive process. The real planning opportunity
comes when the alfalfa field, peach orchard, or
unspoiled mountainside is cut up into building lots.
Consequently, subdivision control is the most important
single aspect of municipal planning. Through reason-
able and effective subdivision control regulations and
procedures substantial parts of a comprehensive plan
may be carried out, improved urban environment with
adequate and convenient local parks, school sites
and shopping areas provided, municipal operating
expenses materially reduced and the competitive
position of a community's economy greatly strengthened.

The purpose of subdivision control is the same
as other municipal planning activities - to improve
urban environment - provide good living conditions,
good residential neighborhoods and a sound and sensible
over-all city land use pattern. Municipal officials
are all familiar with the permanent headaches that
result from poorly planned and inadequately improved
subdivisions - complaints about the storm drainage,
the septic tanks, the chuck holes - that result from a poor initial subdivision job occupy a major part of the time of municipal officials. Correction of initial inadequacies in subdivision design and development is difficult and expensive.

Subdividers and home builders come and go. Their rightful objective is a reasonable profit in their operation. Subdividers have shown remarkable increases in their degree of acceptance of higher standards and a greater social responsibility for the results of their work. However, it is the municipal official that the home owner turns to if trouble appears after the builder has finished his job. The local official must rightfully accept the final responsibility for the quality and character of his city's residential areas.

Powers of the Municipality

A widespread impression has been gained and particularly in the southwestern part of the United States to the effect that each land owner has the right to split up his land in any way that he pleases and that any interference with this right on the part of a government agency is presumptuous and somehow or other - probably unconstitutional. This point of view, however, has little foundation. An early and influential law suit that discussed such basic issues is "Ridgefield Land Co. vs. Detroit" decided in 1928. In this case the subdivider's land included a street proposed to have a width of 120 feet under the Detroit Comprehensive Plan. The city refused to approve the plat unless the subdivider dedicated the full width required. The subdivider made all of the usual legal objections but the court upheld the position of the city. Among others, this decision included the following significant statements:

".....there is nothing unreasonable in the demand of the city that the streets designated in the plaintiff's plat shall be of such a width as to conform to the general street plan. It has been determined that streets of a certain width are necessary to accommodate the traffic. They are necessary for the public safety and therefore the right to provide for them is within the police power of the city.

(continued next page)
"The error in plaintiff's position is the assumption that in requiring an additional dedication and the establishment of a building line to conform to its general plan, the city is exercising power of eminent domain. Its argument would have merit and the authorities cited would have application if this were a case where the plat had been recorded and the city were undertaking to widen the streets or to establish a building line. But this is not such a case. Here the city is not trying to compel a dedication. It cannot compel the plaintiff to subdivide its property or to dedicate any part of it for streets. It can, however, impose any reasonable condition which must be complied with before the subdivision is accepted for record. In theory at least, the owner of a subdivision voluntarily dedicates sufficient land for streets in return for the advantage and privilege of having his plat recorded. Unless he does so the law gives him no right to have it recorded."

In subdivision control, as in all similar matters, the powers of the municipality are those granted by the state legislature. Control of subdivision platting is provided in the New Mexico state city planning enabling act. This law provides for the establishment of planning commissions, permits such commissions to prepare and adopt master plans and then provides that the planning and platting jurisdiction of planning commissions shall include those areas within three miles of the city limits for cities of less than 25,000 population and the area within five miles for larger cities. The act then makes it mandatory for all subdivision plats to receive planning commission approval before they are recorded. In order to have the power to approve or disapprove subdivision plats the planning commission, after public hearing, is to adopt "subdivision regulations" to cover both the design of subdivisions and the extent and character of improvements - i.e. street surfacing, sewer, water, etc. The state law also includes provisions for penalties for transferring lots in unapproved subdivisions, requirement that utilities may not be installed unless the subdivision has been approved and similar enforcement and procedural matters.
The New Mexico legislation on subdivision control is excellent, in accordance with the most advanced practices, and more than adequate to get the job done. It should be emphasized, however, that all subdivision control must be exercised strictly in accordance with the requirements of the state law.

**Subdivision Regulations**

Several New Mexico cities have taken advantage of the municipal planning act; have subdivision regulations and have been exercising control of land subdivision along the general lines laid down by the state law. Results are beneficial and receive the approval of both the municipal officials and the subdividers. These cities include Santa Fe, Albuquerque, Gallup, Roswell, Carlsbad and several others.

Subdivision regulations are essential in order that there may be a reasonable degree of equity and fairness. They are a set of standards. Ideally they would be drawn in such a manner that the city could say to a subdivider: "Here are the rules. Comply with these and your plat will be approved." With both parties fully informed on the details of subdivision requirements the whole process can be expedited, a great advantage when cities are growing as rapidly as they are at the present time. Unfortunately, this objective cannot be entirely attained as there seems to be constant quirks and oddities in almost every plat calling for individual consideration.

**Content of Subdivision Regulations**

Subdivision regulations usually include the following major subjects:

1. **Establishment of the procedure to be followed in subdividing land** - i.e., a preliminary conference, approval of a preliminary plan, approval of plans for installation of improvements, construction of improvements or submission of a bond therefor, and then approval of a final plat.

2. **Content of the preliminary plan** - the preliminary plan is the most important part of the subdivision control procedure. It should contain the basic information needed for intelligent judgment of the merits of the design - topography, location of utilities, characteristics
of adjacent property, etc. General statements should accompany the preliminary plan outlining the subdivider's proposals for the character of improvements to be installed. However, at this stage, the subdivider should not be required to submit street profiles, boundary computations, or any other detailed information not required to appraise the basic design. The purpose of the preliminary plan is to provide a basic design review. The planning commission should feel perfectly free to make changes in the plan at this point. The subdivider should not be required to go to the expense of providing engineering details that might be changed and the work and money thrown away.

3. Content of Final Plat - these are specifications that have been fairly well standardized. Final plats should show building lines and contain or refer to deed restrictions to be placed on the subdivision.

4. Compliance with Master Plan. Each subdivision should be required to provide the major streets and highways, the park and school sites, and the pattern of land use and population density shown in the official master plan of the city. If the city's master plan does not show such proposals with sufficient clarity and definiteness to permit them to be applied to each tract being subdivided then the master plan is inadequate and should be improved and strengthened.

5. Design Standards. This includes standards for minimum width of street rights-of-way, maximum block lengths, requirements for cul-de-sac streets, provision of easements and building lines and similar matters. Two principles should apply to this section of the subdivision regulations: (1) the number of subjects for which standards are specified should be as few as possible - i.e. experience has shown that there is little need for, or value in, an endeavor to provide standards for or regulations of street curvature - horizontal or vertical - or sight distances - because other factors will control these matters; and (2) there is nothing to be gained by specifying widths for secondary or major streets unless there is a detailed, official major street plan. Such widths should be specified in the master plan and related to the street location and not specified in the subdivision regulations.
6. Improvement Standards. The final part of subdivision regulations specify the standards for grading and surfacing of streets, construction of sidewalks, provision for storm drainage, sanitary sewers, and water mains required to be built within the subdivision by the subdivider. These standards vary from city to city as do the extent and scope of requirements. Each new subdivision should provide those minimum improvements required to make it a "going concern". Capital funds from the municipality should not be required. Improvements, further, should be so constructed as to require minimum maintenance on the part of the city. On the other hand the city should have a capital improvement program that will enable it to bring water, sewer, and drainage facilities to the edge of land being subdivided where this land is shown to be needed for this purpose on the city's master plan. Nor should a subdivider be required to pay for facilities of extraordinary size where these pass through his land to serve other owners whose land lies beyond his land. Finally, it is appropriate and desirable to have different standards of improvements for different types of subdivisions (as is done in Carlsbad) rather than to endeavor to stamp a uniform character of improvement over an entire community.

Character of Subdivision Regulations

In order to accomplish their purpose, the subdivision regulations should be short, clear and understandable, and definite. As previously mentioned, they should regulate the minimum number of aspects of the problem. They should be definite - for example instead of stating: "Streets ordinarily shall intersect as nearly at right angles as possible". The regulations should state: "The angle of intersection of two streets shall not vary more than 15 degrees from a right angle". Regulations should not include "pious hopes" or "pep talks" directed at the subdivider such as "where public sewers are not available, developers are urged to consider project sewer systems which are far more satisfactory and often less expensive." If a city does not want septic tanks and is convinced that economies and public health considerations are on its side it should prohibit them outright and not beat around the bush. Nor is it too helpful to a subdivider to say: "Street grades, where feasible shall not exceed the following percentages".
Coordination with Comprehensive Plan

The first purpose of a master plan is to provide a framework to guide the subdivision of land. In many cities since the end of World War II new subdivisions have been built that do not provide adequate right-of-way for major streets and highways or set aside sufficient open space for parks and schools. Yet we know that the automobile is here to stay and that many, if not most, new homes contain children, and that these children require schools and close-at-hand recreation space.

Every city should have an up-to-date master plan, officially adopted, containing an estimate of future growth, indicating the land area best suited to be subdivided for this coming growth, and providing in a definite and specific manner for the location and width of major streets and highways and location of school and park sites that we know will be needed. Then, each subdivision should provide for the land use pattern, the major streets, schools, parks, etc. as proposed on the master plan. There must not, and cannot, be any exceptions. This procedure is the only alternative to complete chaos in urban growth.

This process, of course, does not preclude mistakes. Some of the major streets and some of the park or school sites may be too large, too small, or in the wrong place. However, if the planning commission and city officials are constantly vigilant and watchful they will be able to modify, improve, and refine the official plan from time to time. By following this process a municipality's new growth may not be perfect but we should be able to bat .500 to .600 which is better than batting 000 - the average by any alternative process.

Basic Urban Pattern

National attention has been focused on the problem of urban sprawl - the fringe areas of our cities which are typically an illogical and haphazard intermixture of subdivisions, farms, vacant land, commercial and industrial uses, institutions, etc. This area has best been described as one where we are having ten acres do the work of one.

As a part of its master plan each city should designate the areas that can best be used for subdivision development. This area should be generous in relation to even optimistic estimates of future growth and should
include naturally attractive land for residential use and those areas that may most economically be provided with public services and facilities such as sewer, water, and schools. Residential subdivisions beyond this area should then be strictly prohibited. Adequate power to achieve this type of objective is available under existing New Mexico Statutes.

Major Streets and Highways

The legality and reasonableness of requiring the subdivider to dedicate needed right-of-way for widening a major thoroughfare or for dedicating needed land for a new thoroughfare has been well established. Many miles of adequate major street right-of-way may be obtained in this manner. In almost every case, through careful subdivision design, such dedications will not result in a decrease in the number of lots. In a few cases, where, for example, an expressway with a proposed right-of-way of several hundred feet crosses a tract of only twenty or thirty acres that is being subdivided, it may well be unreasonable to require a dedication of so large a part of an individual tract and some public compensation may be indicated. In all cases where major streets are involved the subdivider should not be required to pay for street paving of a width greater than that required for a typical residential street. The city or county should pay for the additional paving.

Park and School Sites

One of the greatest disappointments in postwar urban growth has been the inadequate provision of open space - particularly park and school sites. Some five to ten percent of the gross residential area should be devoted to this purpose. It is not practical to require each subdivision to dedicate a percentage of its total area because this results in unusable fragments of land expensive to maintain. Several cities in various parts of the country are successfully solving the problem. They first have a master plan showing the areas needed for parks and schools. Where a subdivision includes such an area it must be so designated on the subdivision plat. No subdivider is required to dedicate more than a given percentage (usually five to seven and one-half percent) of his land. However, all subdividers are required to either dedicate the requisite percentage or pay an equivalent amount in dollars into a special fund which is used to purchase those parts of school and park sites which amount to more than the established
percentage of the total area being subdivided. In other cities the subdivider is required to pay an amount that may vary between $37.50 and $100 per lot into a special fund which is then used to buy the land designated for parks and schools. While now somewhat experimental in character, requirements of this type are reasonable and necessary and, it is predicted, will become almost universal in another ten or fifteen years.

Coordination with Neighborhood Design

To obtain good neighborhood design subdivisions should be laid out by the square mile. However, most land in the environs of our cities has been split into five, ten, twenty or forty acre tracts each of which is likely to be subdivided and developed at a different time. Plats for each tract should be coordinated with a sensible scheme for the larger neighborhood. As an adjunct to - or extension of - its master plan each city should prepare tentative neighborhood plans working out, in advance, the most desirable manner for each small tract to be subdivided in relation to the larger neighborhood. With such plans at hand, a planning commission is able to use intelligent judgment when considering an individual plat.

Current Problems and Opportunities

Great strides forward have been made in subdivision design over the past fifteen years. This has been occasioned by (1) an enlightened outlook on the part of subdividers fostered by the National Association of Home Builders and the National Association of Real Estate Boards, (2) the requirements of, and the design assistance provided by, the Federal Housing Administration, and (3) subdivision regulations and practices of municipal governments. There is no reason for any complacency, however. There are several problems to be solved and opportunities to be explored.

Administration

A difficult problem is encountered in the administration of subdivision regulations. The subdivider is always in a great hurry, interest on his money goes on day by day and hour by hour. Yet the analysis of a subdivision plat is a complicated and intricate technical task. Further the city may not be adequately staffed
with personnel with engineering and planning background that is competent to undertake such an analysis. A planning commission of laymen cannot be expected to conduct technical analyses. Progress is being made, however. More patience is needed on the part of the subdividers and more attention on the part of municipal officials. Hasty, last minute, hurry-up reviews of plats are to be avoided. Any mistakes made will be impressed on the land for several hundreds of years.

**Cost**

The second problem has to do with costs. The subdivider and home builder is constantly seeking to lower costs in order to appeal to a wider market. Subdivision regulations tend to increase lot costs which the subdivider does not like. However, it is more economical for the home owner to pay for street paving, sidewalks, sewer, water, and perhaps local parks as a part of his original house cost (which they logically are) than to pay a higher price for them in increased taxes and local assessments.

Real harm has been done by lending agencies in their insistence that the lot amount to be a very small part (ten to twenty percent) of the total house cost. This is despite the fact that the lot is permanent - lasting 400 to 500 years perhaps, while the house is quite ephemeral seldom lasting more than 50 to 100 years. In the Honolulu area because of land scarcity it is not too unusual for the lot to cost as much (or to be worth as much) as the house that is placed upon it. This has not slowed down growth - Honolulu is growing quite rapidly - but it has brought about extremely careful and well studied subdivision design and improvement. Economies should be made in the house, not the lot. We should adhere firmly to the principle of requiring a good and complete standard of public improvements in new subdivisions.

**Design**

A third major problem is that we do not have sufficient well qualified persons who can design a subdivision. Consequently many are designed by the closest land planning official of the Federal Housing Administration or by a local engineer. In many instances civil engineering practices are to blame for poor design with engineers willing to design a subdivision "free" in
order to obtain the engineering work on the streets, sewer, and water. Cost of a good subdivision design is not expensive — usually around ten dollars an acre. Frequently a subdivider pays a far higher price through use of a poor design prepared by the qualified — but far away — FHA technician or the unqualified local engineer. All of this creates headaches for the local municipal staff.

While the influence of the FHA and the publication of the NAHB and NAREB has been good in raising general standards it has been bad in inducing an extreme monotony of subdivision planning. Santa Fe is one of the few unique cities in America, yet many if not most, of its new subdivisions are laid out like, and look like, those in Minot, North Dakota, in Hutchinson, Kansas or in cities in Oklahoma or Alabama. There is little or no endeavor to relate the subdivision design to local climatic conditions, or to express local traditions or characteristics.

An article in the February 1959, Architectural Forum by Richard Miller emphasizes the need for a "new look" at subdivision design. With almost universal use of air conditioning and the increasing use of fences and walls, perhaps we will want to materially reduce individual lot areas and compensate by providing neighborhood swimming pools and play areas as is being done in some California subdivisions. Neighborhood ownership and operation of common facilities such as this by a subdivision board of trustees set up under deed restrictions has been carried on successfully for several decades in St. Louis and Kansas City. Nor is it beyond the realm of possibility that the sociologists will develop basic principles of individual and group relationships that can be applied to residential areas to everyone's benefit.

What does this mean to us as municipal officials? I think that it means that we should keep our minds open for favorable consideration of the new subdivision designs that we should see during the next ten years. Our zoning and our subdivision regulations should contain provisions permitting experimentation — many if not most of them have such provisions now. Whenever a new subdivision design is not patently a device to avoid the regulations we should welcome it particularly when it seems well adapted to any individual characteristics of one community.
Master Plan

The fourth and final problem has been mentioned before. It is the need for an official up-to-date master plan supplemented by more detailed neighborhood plans. These plans should be specific and definite enough that each subdivider be aware of the provisions. Revised, up-to-date editions of the official master plan - at least the map, if not the report, should be published every five years.

Summary and Conclusion

While we are in a period of rapid urban growth we are also in a period of intense competition among cities. Industrial, institutional and even recreational uses have considerable flexibility. These activities are drawn to the city that has superior living conditions. Improved subdivision design may well be said to be a prerequisite of urban growth.

We need to give more attention to subdivision design and improvement. It is among the most vital of all municipal functions. Each subdivision plat, each street, each lot, each lot line must receive our most careful, yet sympathetic, scrutiny. It may be the most permanent mark that any of us place upon the earth.