

THE EFFECT OF SPOT ZONING ON THE MASTER PLAN  
A CASE STUDY: LANSING, MICHIGAN

Thesis for the Degree of M. U. P.  
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**THE EFFECT OF SPOT ZONING ON THE MASTER PLAN**

**A CASE STUDY: LANSING, MICHIGAN**

**By**

**JOSEPH MARTIN PROCHASKA**

**A THESIS**

**Submitted to the College of Business and Public Service  
of Michigan State University of Agriculture and  
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## ABSTRACT

To the Planner, the Master Plan reflects one major achievement in a continuum of analyses which are based on detailed studies designed to examine the urban community in its varied aspects. This plan is made with the hope in mind that it will describe a pattern of future development for the best interests of the community and its residents. As such, the Master Plan should be inviolate to the log-rolling antics of individuals with selfish motives.

Spot zoning has been identified by the courts and authorities on planning as a practice which violated the concepts of sound planning. The indiscriminate re-zoning of parcels in direct contradiction to a valid comprehensive plan has rendered many Master Plans obsolete. As a result, those individuals who made investments in property under the assumption the community would grow in accord with the Master Plan suffered losses so that a few might benefit, at least for a short time. In addition, those governmental agencies who relied on the implementation of the official plan in making their policy decisions encountered setbacks in terms of money and time.

This study was designed to examine the manner in which the practice of spot zoning did affect a particular city's master plan.

In the historical course of zoning as it has related to the planning function many adverse effects were presumed to exist when a spot zone was introduced into an area. Included was the presumption that the spot zone adversely affected the Master Plan. It was, therefore, deemed

necessary to explore and identify the "presumed" effects of spot zoning. This was accomplished through an examination of planning literature and legal opinions rendered on the subject. To isolate "spot zonings" from proper re-zonings it was necessary to develop an acceptable definition for the term. Legal opinions were again examined with the result that any re-zoning which was not in accord with the valid comprehensive plan was considered as a "spot zoning."

Between August 31, 1942, the date of the passage of the present zoning ordinance of the City of Lansing, and January 29, 1957, the City Council amended the Zoning Map 410 times. Three-hundred and fifty-one of these amendments were found to be in that area covered by the Official City Plan. Of this latter group, two-hundred and thirty-two were found to have been made in contradiction to the Official City Plan.

The various characteristics of the 232 spot zonings were examined. Each parcel so re-zoned was then examined in the light of its immediate environment and the Official City Plan. An additional analysis was made of those areas in which an overt amount of spot zonings had occurred during the study period.

In conjunction with this approach an examination was made of the planning environment within which the spot zonings were made. Four agencies were identified as being legally related to zoning in the city.

These were:

1. The City Council.
2. The Planning Committee of the City Council.
3. The City Planning Commission.
4. The technical staff of the City Planning Commission.

Each of these four groups was examined to determine the extent to which



decisions relating to spot zonings were effected by individual members. This exploration uncovered more than a few instances wherein the act of spot zoning was of direct economic benefit to members of these groups. On six occasions, members of the City Council, acting at times in direct opposition to protests of the citizenry, were either owners or lessees of the property involved.

In an effort to determine causal relationships the distribution of spot zones was compared with an appraisal of housing quality, the distribution of non-conforming uses, the 1942 Thoroughfare Plan, the 1953 Arterial Plan and the proposed 1958 Thoroughfare Plan. No correlation was established in any of these comparisons.

Finally, the distribution of spot zones was examined to determine those areas wherein an overt amount of spot zonings had occurred during the study period. These areas were then viewed through a comparison of the 1942 Master Plan and the proposed 1958 Master Plan. Two relationships were found to exist. The first, and most logical, was that where the practice of spot zoning within an area had so changed the character and quality of the area that the use originally planned for the neighborhood was no longer desirable, the comprehensive plan was revised to accommodate the use dictated by the spot zonings. The second relationship was that of the creation of an undesirable heterogeneity of land uses within a neighborhood without having given recognition to the changed character of the area in the revision of the city plan.

Regardless of which relationship exists, the fact remains that those areas in which spot zoning has been permitted are presently a conglomerate of land uses which cannot harmoniously coexist side by side. Neither neighbor will derive the maximum benefit from the use of his land.

#### ACKNOWLEDGEMENTS

This study is based primarily on facts gathered from public records. As such, these facts are available to anyone wishing to examine the records. Frequently, however, the records are located only after hours and days of time-consuming effort and detection. With sufficient assistance from individuals familiar with the information desired, this task can be reduced to a minimum. Miss Millie Brown, Lansing City Clerk, and her capable aid, Mrs. Theo Fulton performed this favor for the writer. Their patience and understanding is hereby gratefully acknowledged. These same two virtues in Professor Charles W. Barr as he guided the development of this study are also gratefully acknowledged.

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He also extends his deepest appreciation to those others who, in their persevering insistence, made completion of this study necessary.

The opinions expressed in this writing are those of the author alone and, therefore, he accepts full responsibility for them.

## TABLE OF CONTENTS

	Page
ABSTRACT . . . . .	ii
ACKNOWLEDGEMENTS . . . . .	vi
LIST OF PLATES . . . . .	viii
INTRODUCTION . . . . .	1
Chapter	
I. SPOT ZONING. . . . .	3
Presumed Effects	
Definition	
II. LANSING, MICHIGAN, CASE STUDY. . . . .	15
Planning and Zoning in Lansing	
Activity	
Personnel	
Summary	
The Nature of the Practice of Spot Zoning in Lansing	
The Effects of Spot Zoning on the Master Plan	
Summary	
III. CONCLUSIONS AND RECOMMENDATIONS. . . . .	63
BIBLIOGRAPHY . . . . .	66



## LIST OF PLATES

PLATE	Page
1. 1942 Master Plan . . . . .	19
2. 1958 Master Plan . . . . .	20
3. Total Re-zonings, 1942-1957. . . . .	22
4. Spot Zonings, 1942-1957. . . . .	29
5. Spot Zone Characteristics by District Classification . .	30
6. Spot Zone Characteristics by General Land Use Type . . .	31
7. Re-zoning Activity by Year . . . . .	33
8. Spot Zoning Activity by Wards and Years. . . . .	34
9. Spot Zones and Housing Quality, 1956 . . . . .	45
10. Spot Zones and Non-Conforming Uses, 1942 . . . . .	47
11. Spot Zones and the 1942 Thoroughfare Plan. . . . .	50
12. Spot Zones and the 1953 Arterial Plan. . . . .	51
13. Spot Zones and the 1958 Proposed Thoroughfare Plan . . .	52
14. Spot Zones and the 1942 Master Plan. . . . .	54
15. Spot Zones and the 1958 Proposed Master Plan , . . . .	55
16. Detailed Study Areas . . . . .	56

## INTRODUCTION

Zoning is the chief tool to expedite the basic land use pattern expressed in the Master Plan. Spot zoning has often been implied as poor, undesirable city planning. However, little effort has been made to specifically define or determine the extent or nature of the effects of spot zoning upon city planning. It has also been declared that spot zoning is in opposition to the principle of zoning in accordance with a fundamental pattern of land uses. If this be true, it is therefore logical to assume that spot zoning is also in opposition to the purposes of zoning. Bassett cites these purposes as follows:

Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other danger; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.<sup>1</sup>

These same purposes have been embodied in the state zoning enabling acts of most States of which the Michigan State Zoning Enabling Act is typical. It sets forth the purposes of zoning as:

To lessen congestion on the public streets, to promote public health, safety and general welfare, and shall be made with reasonable consideration, among other things to the character of the district, its peculiar suitability for particular uses, the conservation of property values and the general trend and

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<sup>1</sup>Edward M. Bassett, Zoning, (New York; Russell Sage Foundation, 1936), pp. 51-52.

character of building and population development.

. . . . .  
To limit the overcrowding of land, to avoid undue congestion of population, to facilitate adequate provision for a system of transportation, sewage disposal, water, education, recreation and other public requirements, and to promote public health, safety and general welfare.<sup>2</sup>

Affirmation of the belief of the wisdom and soundness of these purposes has been voiced in many legal opinions. The classic U. S. Supreme Court Case *Euclid vs. Ambler* is, perhaps, the most often quoted. Justice Sutherland, speaking for the court, expressed the purposes of zoning by citing from *City of Aurora v. Burns*, 319 Ill 84, 93 the following:

The segregation of industries, commercial pursuits and dwellings to particular districts in a city, when exercised reasonably, may bear a rational relation to the health, morals, safety and general welfare of the community. The establishment of such districts or zones may, secure quiet residence districts, expedite local transportation, and facilitate the suppression of disorder, the extinguishment of fires and the enforcement of traffic and sanitary regulations. The danger of fire and the risk of contagion are often lessened by the exclusion of stores and factories from areas devoted to residences, and, in consequence, the safety and health of the community may be promoted.<sup>3</sup>

Spot zoning is in opposition to the purposes of zoning. A study of the effects of spot zoning, therefore, must be based on the degree of deviation directly attributable to the illegal spot zoning from these purposes.

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<sup>2</sup>Michigan Act 207 of the Public Acts of 1921 as amended (Sections 125.582 and 125.583 of compiled laws).

<sup>3</sup>*Village of Euclid et al. v. Ambler Realty Company*, Vol. 272 US 365; 47 S Ct R 114; 71 L ed 303.



## CHAPTER I

### SPOT ZONING

#### Presumed Effects

The action of zoning small isolated islands within a given district for a use not in conformity with surrounding properties has been the subject of countless legal disputes. Rathkopf states:

Spot zoning is in direct opposition to the zoning purposes and the spirit and intent of the enabling statutes or acts. It is in direct conflict with a required comprehensive plan and the intent and spirit of the statutes. An ordinance or amendment thereof which singles out a lot or area and grants such property privileges which are not granted or extended to other land in the vicinity in the same district adversely effects the proper and orderly development of the district or vicinity where the property is located and the community as a whole.<sup>4</sup>

Recognition of the possible adverse effects of spot zoning has been granted by many courts in ruling against such re-zonings. In *Cassinari v. City of Union City*, 1 N. J. Super. 219, 63 A. 2d 891 (App. Div. 1949), the re-zoning was invalidated on the grounds that the proposed use "Was not in keeping with the character of the neighborhood." It is significant to note that support for such a finding was cited in the 1932 President's Conference on Home Building and Home Ownership wherein the recommendation of the Conference against spot zoning was based on the contention that:

Every structure affects its neighbors. For instance, a public filling station or garage constructed in a residential district

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<sup>4</sup>Charles A. Rathkopf and Arden H. Rathkopf, The Law of Planning and Zoning (3rd ed.; New York: Clark Boardman Company Ltd., 1956) I, 369.

will have a tendency soon to break down the quality of that residential district, and that in turn will tend to depreciate the quality of the life of the residents of the district. Physical debilitation of structures inevitably produces detrimental spiritual and health effects on those who live in the structures. Consequently whatever would stabilize the residential neighborhood for residential purposes would tend to keep up the healthfulness and general decencies of life in that neighborhood and thereby keep up the quality of the residential development; and whatever would tend to stabilize a neighborhood for residential development would attract residential uses leading to investment in houses and other residential development.<sup>5</sup>

Stability within an area, be it a residential area a commercial area or an industrial area owes its existence to the presence of the proper quality quantity and distribution of economic and physical elements. In the case of the residential area a third element, the social factor also affects stability. Each category of land use, by its nature, possesses a separate set of requirements regarding these elements. The commercial area, in order to be successful, needs a market from which to draw its customers and a location which makes shopping a convenience for the customer, rather than an inconvenience or a hazard. The residential area requires safe streets, adequate light and air, schools, parks and playgrounds if it is to provide its occupants with the amenities normally associated with home life.

The introduction of a land use that presumes a distinctly different set of requirements of these elements imposes upon the area surrounding it a conflict in desired goals and therefore creates an obstacle which must be surmounted if the goal of either type of land use is to be realized. The overcoming of such an obstacle frequently

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<sup>5</sup>The President's Conference on Home Building and Home Ownership, Planning for Residential Districts, ed. John M. Gries and James Ford (Washington, D. C.; National Capital Press, Inc., 1932), p. 43.

imposes a penalty of such magnitude that its price is reflected in the involuntary retraction of the initial goal to one less desirable or, in some instances, the complete abandonment of the goal.

It is obvious, the presence of an industry, such as a drop forge plant, in a residential area would impose upon that residential area its own non-residential characteristics of heavy traffic, vibration, odor and smoke. In addition, such an industry would have vastly different requirements for such urban services as water and waste disposal. Successful operation of the industry would be hampered severely if these characteristics, however obnoxious and detrimental to the residential area, were altered in any way, yet, permitting the passage of the industry's heavy traffic through a residential area would not, in any way accomplish the goal of the community to provide maximum safety on residential streets. The control of odor, smoke and noise to meet the needs of the residential area would impose upon the particular factory costs which might not be necessary were their location elsewhere. To provide urban services in the quality and quantity necessary for the industry might necessitate the wasteful extension of utility lines of a size not needed by the surrounding area. The cost of the wasteful extension would have to be borne by either the industry, the surrounding neighborhood or the community at large. In any event, this additional cost would be attributable to the improper location of the factory.

Such a comparison is not as obvious in the case of the land uses with lesser contrasts in goals. The isolated grocery store or filling station does not seem to clash with the surrounding residential area, yet, because there does exist a difference in their



attendant characteristics, one cannot but acknowledge that in time some penalty would be inflicted upon the adjacent residential area. In music, discord, regardless of its magnitude or frequency, depreciates the quality of the passage. With repeated discordant notes an entire score can be destroyed. Such is the case with the community. With repeated spot zonings an entire neighborhood can be destroyed.

Recognition of this adverse influence upon a residential area was given by the court in *Linden Methodist-Episcopalian Church v. Linden*, 113 N. J. L. 186, 173 A. 593, wherein the court opined:

An attempt to wrench a single lot from its environment and give it a new rating that disturbs the tenor of the neighborhood should receive the close scrutiny of the court lest the zoning enactments, constitutional and legislative, be diverted from their true objectives.

The fact that such an action would be just generally detrimental to the surrounding properties was sufficient evidence to warrant judicial invalidation in many cases.<sup>6</sup>

The most significant effect of spot zoning noted by the courts has been that of subversion of the comprehensive plan. The courts have contended that spot zoning, through the introduction of land uses not in accord with those outlined in the comprehensive plan for the area in question, would undermine, and eventually destroy, the intent of the community

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<sup>6</sup>See: *Hermann v. Incorporated Village of East Hills*, 104, N. Y. S. 2d 592.

*Conlon v. Board of Public Works, Patterson*, 11 N. J. 363, 94 A. 2d 660.

*Leahy v. Inspector of Buildings of City of Bedford*, 308 Mass. 128, 31 N. E. 2d 436.

*Jersey Triangle Corporation v. Board of Adjustment*, 127 N. J. L. 194, 21 A. 2d 845.

*Polk v. Axton*, 306 Ky. 498, 208 S. W. 2d 280.

as evidenced by the comprehensive plan.<sup>7</sup> This intention has been defined as the guidance and accomplishment of "A. coordinated, adjusted, and harmonious development of the municipality which will, in accordance with existing and future needs, best promote public health, safety morals, order convenience, prosperity, or the general welfare, as well as efficiency and economy in the process of development."<sup>8</sup> Proper zoning, "By segregating residential, business, and industrial uses of property, . . . permits economic street and utility development adapted to the prospective population and use of each particular area. In the same way it is basic to the development of plans for locating municipal facilities -- for example, schools and playgrounds -- and reduces the cost of police and fire protection. It simplifies the task of the assessor in making fair assessments, particularly on land values."<sup>9</sup> To create "districts" of such minute size that they are not, in reality, districts at all, would negate these economies. In *Huebner v. Phila. Savings Fund Society*, 127 Pa. Super. 28, 192 A. 139, the court said:

Neither that nor other zoning cases passed upon by our courts have definitely fixed, however, the limitations that may be imposed upon the area of land in district zoning, but there is a clear implication running through them that a single lot with a building thereon is not a proper area to be classified as a district in itself. Such restrictions result in discrimination in that it does not bear

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<sup>7</sup>See: *Kuehue v. Town Council of East Hartford*, 136 Conn. 452, 72 A. 2d. 474.

*Bartram et.al. v. Zoning Commission of City of Bridgeport*, 136 Conn. 89, 68 A. 2d 308.

*Strain v. Mins*, 123 Conn. 275, 193 A. 754.

*Hardin v. Croft*, 207 Ga. 115, 60 S. E. 2d 395.

*Cassel v. Mayor and City Council of Baltimore*, Court of Appeals of Maryland, May 11, 1950, 73 A. 2d 486.

<sup>8</sup>Local Planning Administration, International City Managers' Association Chicago, 1948, p. 290.

<sup>9</sup>Ibid., p. 221

alike on all persons living in the same territory and cannot be sustained under the exercise of the police power.

If zoning is properly practiced, then those sizes of districts ordained by the zoning ordinance are deemed as optimum in achieving the afore-mentioned economies.

Zoning is the most effective tool for implementing that segment of the comprehensive plan which charts land uses and their distribution throughout the community. In this land use plan, "What is really being planned is the pattern of activities of human beings who reside and work in the city, but these human activities are influenced indirectly through control of the structures and other physical facilities that the inhabitants of the city use. The land use plan will determine within certain limits where people will live in the city, where they will work, and where they will shop."<sup>10</sup>

Spot zoning, because it counteracts the intent of the community in designing what the optimum district size should be, and because it creates through legislative sanction an uneconomically sized unit, nullifies the land use plan as it relates to the district in which the spot zoning occurs. Neither the area re-zoned nor the surrounding area, therefore can benefit from the economies inherent in a harmonious district. Obviously the practice of spot zoning, by not implementing the comprehensive plan, must impede and eventually subvert the comprehensive plan, and therefore, if the plan is a manifestation of the intention of the community, the spot

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<sup>10</sup>Ibid., p. 9.

zoning also subverts the intention of the community.<sup>11</sup>

In *Roman Catholic Archbishop, etc. of Oregon v. Baker*, 140 Ore. 600, 15 P. 2d 391, the court identified still another possible effect of spot zoning. The court stated:

If this single intrusion of business is sustained, it will be merely the opening wedge for other commercial interests. It will result in a 'commercial island' established in the center of one of the best residential districts in the City of Portland.

Where relative stability exists within an area the appearance of a land use which does not conform to the surrounding land uses presents a situation wherein future intrusions of similar non-conforming land uses are more easily accomplished. The complete absence of non-conforming uses within a neighborhood provides no base from which to form an appeal for the creation of one. Once a spot zoning has been accomplished its very presence seems to found the argument for additional non-conforming uses. As each successive spot zone is legalized the difficulty of insuring stability with the area becomes greater.<sup>12</sup> The consensus of legal

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<sup>11</sup>Paradoxically, the issue has been compounded by appellants in many cases through the use of the argument that other land uses dissimilar from the surrounding area, but similar to the proposed spot zone, presently exist within the legal framework of the zoning ordinance as "Non-conforming Uses." Scant attention has been paid by those employing this argument, and incidentally, by many courts, to the very essence of recognition of Non-conforming Uses; that the use was legally in existence at the time of adoption of the zoning plan, but that such use was not in conformity with the intentions of the community as evidenced by the comprehensive plan. The community's recognition of the legal right of a Non-conforming Use to continue does not, in any way, presume that such a use is compatible with the comprehensive plan. Repeated re-zonings based on this argument tend to perpetuate the Non-conforming Use and give rise to additional spot zonings. Practiced indiscriminately throughout a community, spot zoning would undoubtedly subvert any comprehensive plan and, what is more important, the proposed patterns, both public and private, based on the assumption that the community would grow in accordance with such a plan.

<sup>12</sup>This was substantiated in *DeBlasiis v. Bartell*, 143 Pa. Super. 485, 18 A. 2d 478.

thought is exemplified in the opinion handed down by the court in *Coulthard v. Board of Adjustment of City of Neligh*, 130 Neb 543; 265 N. W. 530 (1936) wherein the court held that refusal to issue a permit to erect a gas station where permission to build one on a lot across the street had been granted was arbitrary and unreasonable.

This effect of spot zoning was specifically attacked in the classic *Euclid v. Ambler*, 272 US 365; 71 Law Ed 303; 47 S Ct 114 (1926). Mr. Justice Sutherland, speaking for the court, wrote in part:

The coming of one apartment house is followed by others, interfering by their height and bulk with the free circulation of air and monopolizing the rays of the sun which otherwise would fall upon the smaller homes, and bringing as their necessary accompaniments, the disturbing noises incident to increased traffic and business, and the occupation, by means of moving and parked automobiles, of larger portions of the streets, thus detracting from their safety and depriving children of the privilege of quiet and open spaces for play, enjoyed by those in more favored localities -- until, finally, the residential character of the neighborhood and its desirability as a place of detached residences are utterly destroyed.

#### Definitions

Although the courts have consistently recognized the undesirable effects of spot zoning, the principle of stare decisis has been based on violations of legislative or constitutional privilege, rather than on what spot zoning does to a community's structure. Generally speaking, this is probably true in the early jurisprudential history of most new legislation. A proper and just verdict is more readily assured through the citation of a violation of legislative or constitutional privilege than it would be were the case based on those fundamental effects which underlie the reasons for the legislation. However, as cases test the legality of the law, this reliance on privilege violation for successful prosecution or defense of the new act gives way to reliance on the identification of

the presence or expected presence of those effects which caused the law to be enacted. Such has been the case in the courts' treatment of spot zoning.

In the early days of zoning in the United States the courts looked to violations of legislative and constitutional privilege as evidence of spot zoning. One of the first violations cited was that which singled out a small parcel of land for a land use classification totally different from that of the surrounding properties where such was not pursuant to a valid and reasonable comprehensive plan.<sup>13</sup> The courts held that such an act was a contradiction of the definition of zoning. Bassett states:

Zoning is the regulation by districts under the police power of the the height, bulk, and use of buildings, the use of land, and the density of population. Most state enabling acts for zoning require that the regulations shall be uniform for buildings of the same class throughout the district.<sup>14</sup>

The Michigan State Zoning Enabling Act also provides that: "Such regulations shall be uniform . . . throughout the district."<sup>15</sup> Inherent in both Bassett's definition and the provision in the Michigan State Zoning Enabling Act is the requirement that regulations shall be uniform throughout each district. The courts have maintained that where an act violated

<sup>13</sup>See: Rodgers v. Village of Tarrytown, 302 N. Y. 115, 96 N. E. 2d 731.

Kuehne v. Town Council of East Hartford, 136 Conn. 452, 72 A. 2d 474.

Zuckerman v. Board of Zoning Appeals, 144 Conn. 160, 129 A. 2d 473.  
Cassel v. Mayor and City Council of Baltimore, 73 A. 2d 486.  
County Commissioners of Anne Arundel County v. Ward, 186 Md. 330, 46 A. 2d 684, 146 A. L. R. 827.

Chayt v. Maryland Jockey Club, 179 Md. 390, 18 A. 2d 856.  
Soule v. Town of Perinton, 152 N. Y. S. 2d 734.

<sup>14</sup>Bassett, p. 45.

<sup>15</sup>Michigan Act 207 of the Public Acts of 1921 as amended (Section 125.582 of compiled laws.)

this requirement there was not a proper exercise of the police power and therefore the zoning could not be upheld. This singling out of a small parcel gave rise to the term "spot zoning". The courts have also generally held that when such action was taken or contemplated, it was usually for the benefit of the owner and/or to the detriment of the surrounding area.<sup>16</sup> Such action is an arbitrary exercise of the police power and therefore invalid.<sup>17</sup> This rationale has been expanded recently to include not only amendments to the zoning plan, but also the zoning plan itself. The creation of a district within the zoning plan which, in fact, singles out a small parcel for a use classification totally different from that of the surrounding properties for the benefit of the owner and to the detriment of the other owners, does not obviate the reasoning underlying the definition granted to the spot zone by the courts. In *Vernon Park Realty, Inc. v. City of Mount Vernon*, 125 N. Y. Supp. 2d 112 (App. Div., Oct. 19, 1953) the court held that a "parking district" which permitted only this one use was an arbitrary use of the police power and an unconstitutional deprivation of property rights. That the comprehensive city plan indicated these "parking districts" in its land use plan did not validate the spot zone, but, instead, served to raise a question regarding the integrity of the land use plan.

It can summarily be stated that the courts have generally held to the following facts before sustaining a charge of spot zoning:

1. A small parcel of land is singled out;

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<sup>16</sup>See: *Whitmore v. Bldg. Inspector of Falmouth*, 313 Mass. 248, 46 N.E. 2d 1016.

*Leahy v. Inspector of Buildings of City of New Bedford*, 308 Mass. 128, -N. E. 2d 436.

<sup>17</sup>See: *City of Sherman, Texas, v. Simms*, 183 S. W. 2d 415.

2. The proposed use classification is totally different from that of the surrounding area;
3. The proposed change is for the benefit of the owner of such property;
4. The proposed change will be detrimental to the owners of surrounding properties;
5. The proposed change is not in accord with a reasonable and valid comprehensive plan.

To appreciate the concept of spot zoning as it has been identified by the courts, it is, perhaps, appropriate to examine the converse side. If a change of zone is reasonable, and is in accord with the comprehensive plan, or may be justified as contributing to the public safety, health, or general welfare of the community, then it is not spot zoning.<sup>18</sup> What seems to have been implied here is that of the five facts mentioned previously, the courts, in general, rely on just one point; the relationship of the area in question to a valid and reasonable comprehensive plan. That a small parcel of land has been singled out is not sufficient evidence to warrant the term "spot zone" for the demand for some land uses is such that a community may need but a small area devoted to that use. A "utility district" is an example of this type of land use. The necessity for a scattered distribution of small areas devoted to public utilities is evident, yet, because a small parcel of land has been singled out for such

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<sup>18</sup>Such was the opinion of the various courts in:  
 Hills v. Zoning Commission of Newington, 139 Conn. 603, 96 A. 2d 212.  
 Hedin v. Prince Georges County, 120 A. 2d 663.  
 Hendlin v. Fairmount Construction Co., 8 N. J. Super. 310, 72 A. 2d 541.



a purpose does not automatically earmark such a district as a spot zone. By the same token, such a land use could be totally different from the surrounding area and still not be classified as a "spot zone".<sup>19</sup> In *Stiger v. Village of Hewlett Bay Park*, 283 App. Div. 827, 129 N. Y. S. 2d 38, the court said it was within the power of the village to specifically exempt from the scope of the ordinance, structures essential to the performance of mandatory duties for the safety of all its inhabitants.

The issues of benefit and detriment are relative. The perfect ordinance which describes boundaries that grant benefits to each and every property owner has not been created. The comprehensive plan, if valid and reasonable, purports to give the greatest benefit. It follows that subversive alteration of the plan would give something less.

It seems, therefore, that of the five facts looked for by the courts, four are ancillary characteristics which are attributable to the fifth; the lack of accord with a reasonable and valid comprehensive plan. If there is agreement with the comprehensive plan, then the presence of any or all of the other four facts does not automatically label the proposed land use as a "spot zone".

For the purposes of this study, the terms "spot zone" and "spot zoning" shall refer to any re-zoning which has been accomplished but is not in accord with the legally adopted comprehensive plan.

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<sup>19</sup>See: *Asher v. Hutchinson Water, Light and Power Co.*, 66 Kan. 496, 71 P. 813, 61 L. R. A. 52.

*State ex. rel. Christopher v. Matthews*, 240 S. W. 2d 934.

*Transcontinental Gas Pipe Line Corp. v. Borough of Miltown*, 93 f. Supp. 287.

*Long Island Lighting Company v. Griffin*, 272 App. Div. 551, 74 N. Y. S. 2d 348.

## CHAPTER II

### LANSING, MICHIGAN, CASE STUDY

#### Planning and Zoning in Lansing

The purpose of this chapter is to describe the planning environment within which amendments to the Zoning Ordinance of the City of Lansing have been made. The determination of the degree to which the principles of sound planning have been applied in re-zoning cases is fundamental to an analysis of the effects of spot zoning upon the master plan for without any plan whatsoever, no base would be available against which poor planning practices could be measured.

The existence of a comprehensive city plan and a planning commission serves to indicate that the community has a desire to guide its growth in an orderly fashion. The manner in which this guidance is exercised is the responsibility of the individuals involved in not only the creation of the comprehensive city plan, but also those involved in its implementation. As the legislative body of the municipal government, the City Council has the responsibility to legally implement the city plan. To effectuate its considerations of matters pertaining to planning, the City Council has created the Committee on Planning, a standing committee, to appraise the considerations and recommendations of the City Plan Commission.

The effectiveness of any organization can be reduced if the turnover of the personnel involved is high. This maxim can also be applied to planning. An overt turnover of personnel can seriously hamper the

continuity of planning thought and action. If a city plan is subjected to the interpretations of individuals with diverse motivations, the continuity of planning thought and action is destroyed. This continuity is the factor which transforms the plan into reality. A rapid and radical yearly turn-over in personnel would prevent this continuity. If there were any carry-over, it would undoubtedly be minimal, and then only coincidental.

The converse side of the issue would be represented by the concerted efforts of policy making individuals and technicians over a long period of time. Carry-over of planning thought and action, in this case, would not be accidental and minimal, but deliberate and maximal.

### Activity

The first evidence of the assumption of planning as a function of city government in Lansing was on June 14, 1920, when the City Council contracted with a private planning consultant for the preparation of a "comprehensive city plan." In September of that year the council authorized the Mayor to appoint a temporary City Plan Commission to work with the consultant in preparing the master plan.<sup>20</sup>

This plan, including a major street plan, recreation plan, transit plan, transportation plan, a section on "Lansing's Appearance," and a zoning proposal, was adopted by the Plan Commission in October, 1921. The zoning proposal formed the base for the first zoning ordinance which was adopted in 1927.<sup>21</sup> The Plan Commission, however, was permitted to expire,

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<sup>20</sup>Harland Bartholomew, City Planning Engineer, The Lansing Plan, A Report to the City Plan Commission (Lansing: City Plan Commission, 1921).

<sup>21</sup>City of Lansing, Zoning Ordinance (1927).

and consequently, planning was not given permanent, continuing status by the council.

Without a Plan Commission to act in behalf of the plan, the city grew in a manner seldom in accord with the plan. Few city departments employed the plan as a guide in their activities. The notable exception, the Parks and Cemeteries Board, did more to promote the plan than did all other departments combined. The land acquisition policy of this Board served to guide the city's growth more than did any other policy adopted by any other department.

In 1935, the City Council recognized the necessity for a revision of the original city plan and on June 3rd of that year authorized the Mayor to appoint a City Plan Commission for that purpose. This commission again obtained the services of the same consultant who prepared the 1921 plan. The revised plan was presented to the City Plan Commission in November, 1937. Much broader in scope than the 1921 plan, this plan included a population study, land use plan and zoning proposal, and plans for major streets, transportation, transit, recreation, civic center development, and state capitol development.

Since the City Plan Commission had not been created under the provisions of Michigan planning enabling legislation, it could not officially adopt the plan, however, the commission did publish the plan in 1938 with the recommendation that it be adhered to as closely as possible. Both the commission and the consultant strongly urged formation of a city plan commission under the Municipal Planning Commission Act.<sup>22</sup>

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<sup>22</sup>Michigan, Compiled Laws (1948), secs. 125.31-125.45.

On November 12, 1940, the City Council created a City Plan Commission pursuant to state enabling legislation. This commission adopted an "Official City Plan" on December 29, 1942. The plan as adopted consisted of the material previously prepared by the consultant, with amendments to the major street plan and the recreation, parks, and school plan.

Plate 1 is a graphic reconstruction of the major elements of this plan, which has been in effect from 1942 to the present and which has served as a guide to the Plan Commission in making recommendations to the City Council and other public agencies concerning property acquisition, major streets, river front development, fire protection, off street parking, public buildings, alleys, and amendments to the zoning ordinance and map.<sup>23</sup> This master plan forms the framework within which the city has developed since 1942 and presumably all elements of the community have been affected in some way by this plan.

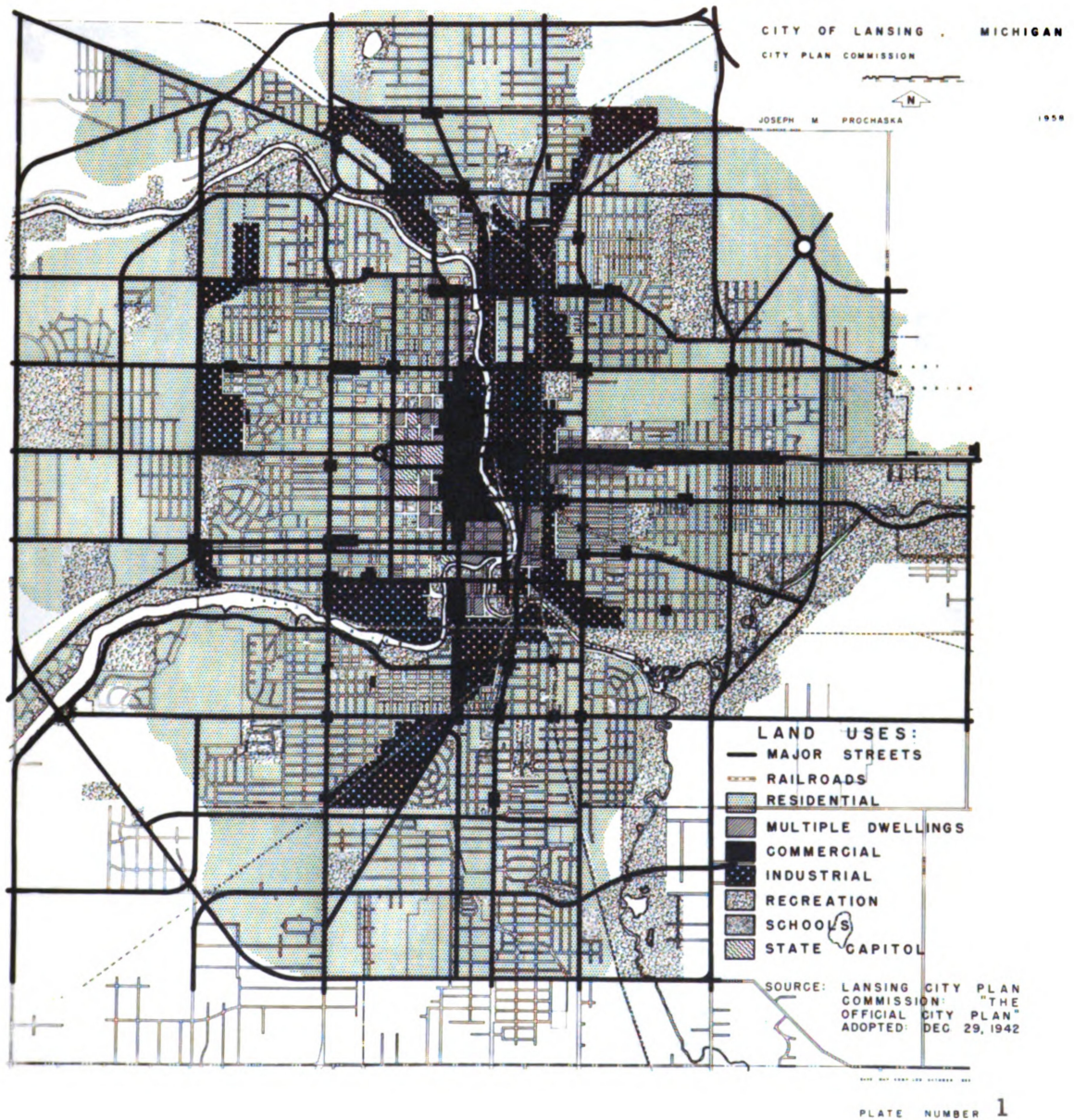
At this writing the City Plan Commission is in the final stages of a complete revision of the 1942 plan. Its boundaries have been extended to include all of the urbanized area surrounding the City of Lansing. Plate 2 is a graphic portrayal of the major elements of this revision pertaining to the area under study. Public hearings relative to the adoption of this plan are tentatively scheduled for the latter part of 1958. A zoning proposal will be set forth during the following year.

Until the passage of a new zoning ordinance, the ordinance passed on August 31, 1942 will undoubtedly remain in effect. During the period with which this writing is concerned, August 31, 1942 to January 28, 1957,

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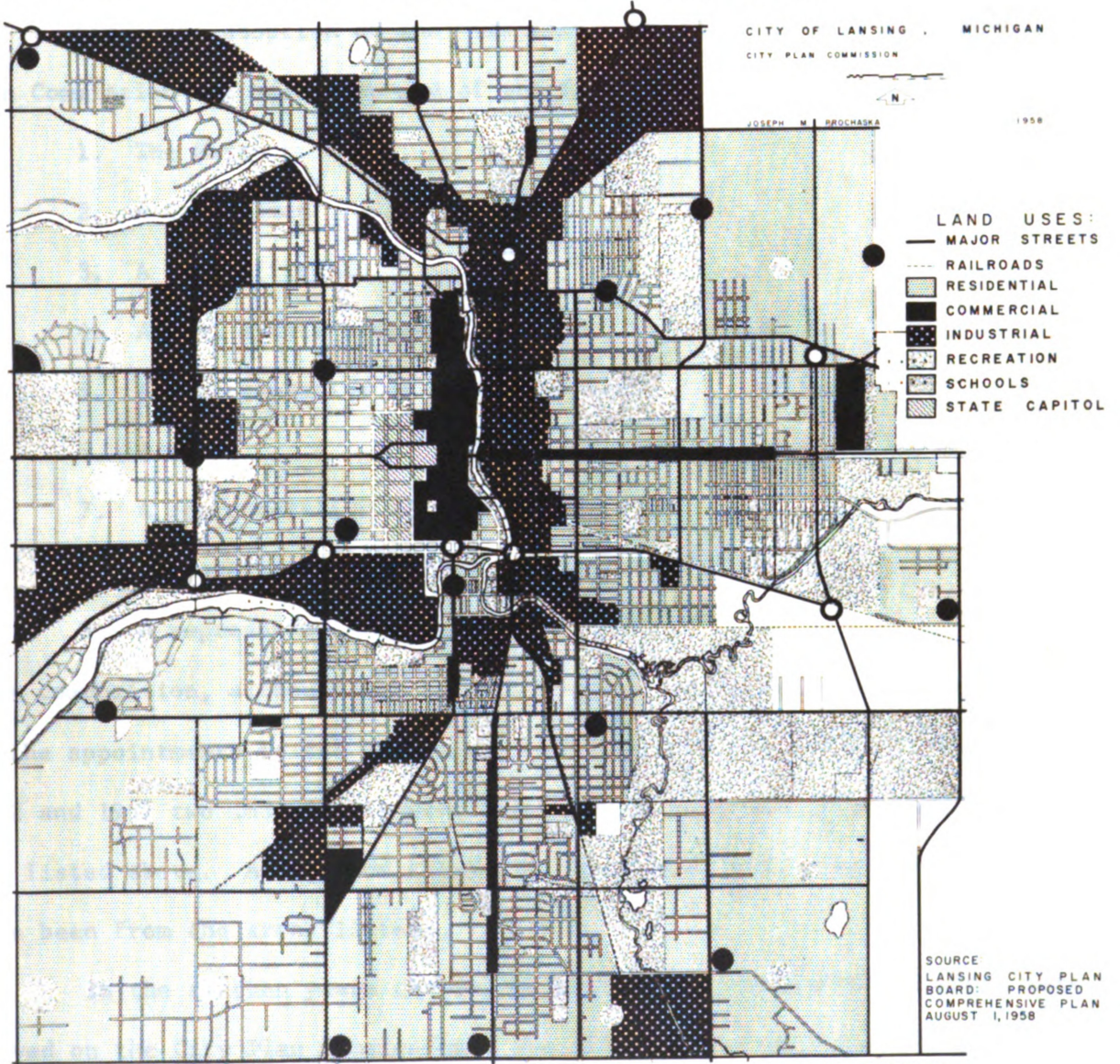
<sup>23</sup>Lansing City Plan Commission, Planning Lansing -- Past, Present, Future (Lansing: City Plan Commission, 1951).

# 1942 MASTER PLAN





# 1958 MASTER PLAN



fifty-four amendments to the ordinance text and 410 map amendments were made by the City Council. Plate 3 shows the location of the 410 map amendments.

### Personnel

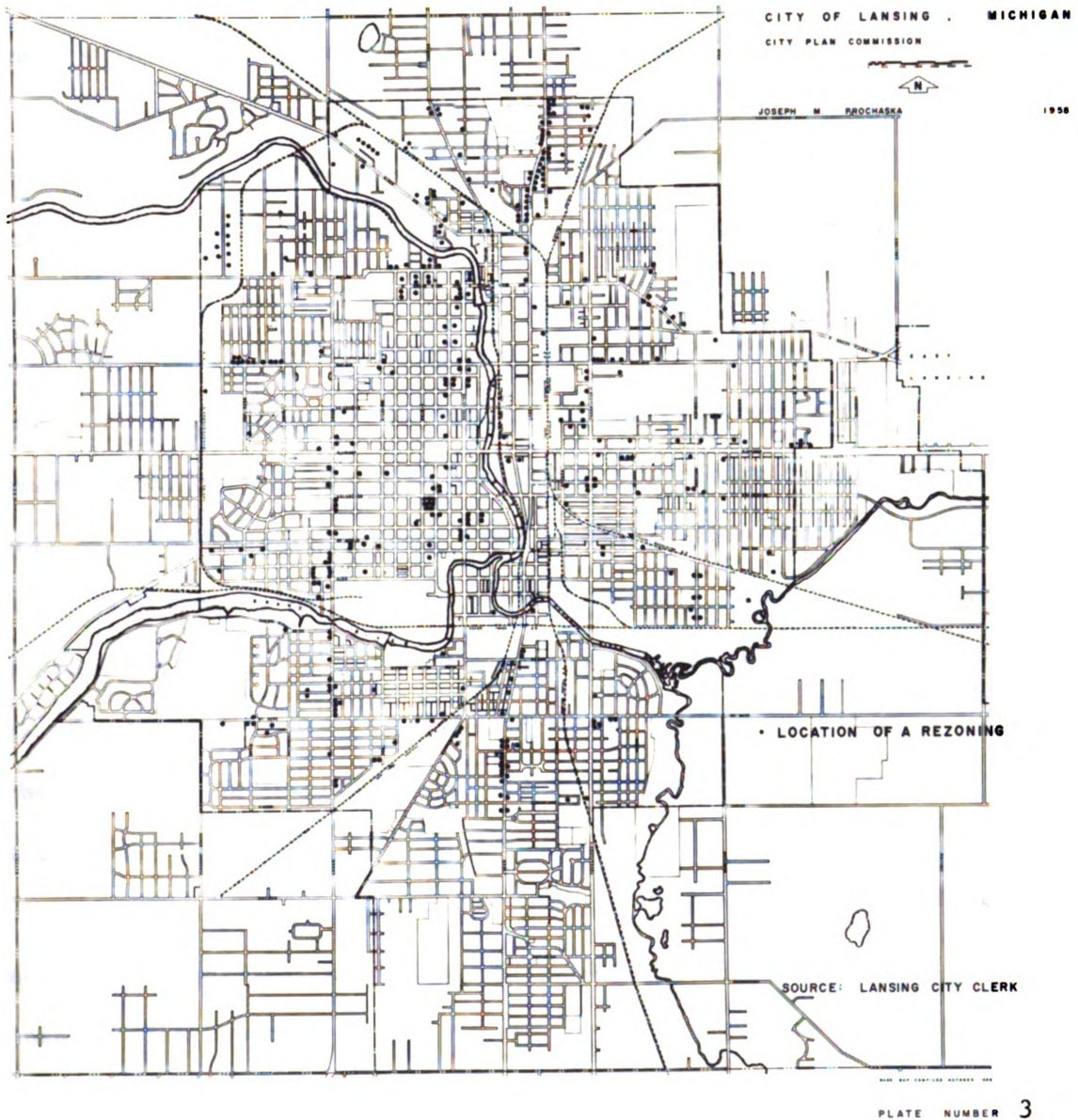
Since the adoption of the "Official City Plan" in 1942 the City Plan Commission has been composed of the following:

1. The Mayor
2. A Councilman
3. A City official
4. A real estate broker
5. A representative of organized labor
6. A woman
7. A representative of downtown business
8. A representative of the Junior Chamber of Commerce
9. A representative from small business

This composition, although not legally founded, has been steadily maintained in the appointments to the commission with only two exceptions. Between 1942 and 1957 two individuals were appointed to the commission from areas not listed above. Aside from these two exceptions, all other appointees have been from the areas listed.

In the sixteen years covered by this study, twenty-three people have served on the City Plan Commission. The nineteen who served their entire terms during this period had an average tenure of 7.3 years. Two members, the representative of labor and the women's representative served on the commission during the entire period. Eight members served more than seven years. The first chairman of the commission, a former insurance agent and



**REZONINGS: 1942-1957**

the commission's representative from the Junior Chamber of Commerce, served as chairman from 1941 to 1948, at which time he was appointed full time director of the technical staff, a position he still holds. The first full time director of the staff served as a member of the commission for four years prior to his appointment as director. Previously, he had been a civil engineer with a local automotive firm.

Turnover in the composition of the City Plan Commission has been slight. Aside from the representatives from the City Council, the average length of service for a commission member has been slightly under eight years.

The Committee on Planning is a standing committee of the City Council and is appointed by the Mayor. Its major function is to study the recommendations of the City Plan Commission and render opinions to the City Council on those recommendations. One member of this committee serves on the City Plan Commission as an ex officio member. Since its creation in 1943 seventeen different councilmen have served on the Committee on Planning. The average tenure for these seventeen councilmen has been four and one-half years. Two councilmen served in excess of six years in this capacity.

The City Council, as the legislative body of the city, is the only agency of the municipal government authorized to change or amend the zoning ordinance. The council, by its own motion or by petition, after a public hearing of which at least fifteen days notice has been given in an official newspaper, may amend, supplement or change, modify or repeal the boundaries or regulations of the zoning ordinance after submitting such a proposed action to the City Plan Commission for its recommendations and report. "In addition to the newspaper notice, the Building Inspector, upon notification

by the City Clerk, shall place upon the involved properties in a prominent position a printed sign bearing the words 're-zoning pending' from . . . . . classification to . . . . . classification and the date of hearing in large letters which sign shall be posted fifteen days before the date of the hearing. The sign is to be at least 18" x 24" in size. In case, however, that the City Plan Commission disapproves the change, or a protest against such changes duly signed and acknowledged by the owners of twenty per cent or more of the frontage proposed to be altered, or by the owners of twenty per cent or more of the frontage immediately in the rear thereof, or by the owners of twenty per cent of the frontage within three hundred feet and on the same side of the street as the frontage proposed to be altered, such amendment shall not be passed except by the three-fourths vote of all member of the City Council."<sup>24</sup>

Between 1942 and 1957 fifty-seven people served on the City Council. The average tenure of those who were elected after 1942 is over seven years. One councilman served for fifteen years during the period prior to this 1942 to 1957 era. His total length of service is twenty-six years. Five councilmen served eleven years or more during this sixteen year period. Of the agencies involved in planning and zoning in Lansing the City Council possesses the longest average tenure, the highest median of tenure, and has present members with the longest records of service.

The technical staff of the City Plan Commission is employed "to gather and analyze all necessary information of all the elements, such as Land Uses, Streets, Schools, Recreation Areas, Public buildings, Public utilities, etc., which make up a City desirable to live, work and play in

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<sup>24</sup>City of Lansing, Zoning Ordinance (1942), pp. 38-39.

at the present time and in the future.

. . . . .

The analysis of such information provides the basis for the Commission's recommendations for the development of the area including, among other things, the general location and character of streets, bridges, parkways and open spaces, public buildings and other public properties, as well as a zoning plan for the control of the height, area, bulk, location and use of buildings on premises. Their recommendations must include adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, promotion of the healthful and convenient distribution of population, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements."<sup>25</sup>

Lansing has had a technical planning staff since 1945. The staff has ranged in size from the initial one man to a staff of seven, including the Director, three technical assistants, one draftsman and two clerical employees. The first director, formerly a civil engineer and member of the City Plan Commission, was appointed in 1945. Four years later he was replaced by the man who presently holds the position. The present director was formerly in the insurance business and also served as Chairman of the City Plan Commission for eight years. In 1948 a landscape architect was added to the staff. The first employee with formal training in planning was hired in 1953. This man presently holds the position of Senior Planner. His service on the staff was interrupted in 1954 for two years while he served in the United States Army.

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<sup>25</sup>City of Lansing, Annual Report (1955), p. 17.

In the twelve years the staff has been in operation turnover in the upper echelon positions has been minor. Only three individuals have been employed in supervisory capacities since the staff was started. Of these three, two are still in the employ of the City Plan Commission. One, the present Director, has been intimately involved with planning in Lansing since before the adoption of the Official City Plan, either as Chairman of the City Plan Commission or Director of the technical staff.

### Summary

Four inter-related groups are closely involved in planning and zoning in the City of Lansing. The technical staff of the City Plan Commission collects data for analysis on all matters relating to planning. The Director of the staff serves as secretary to the City Plan Commission and presents agenda items to that body. The City Plan Commission makes recommendations to the City Council based on the information gathered and analyzed by the technical staff. These recommendations are studied by the Committee on Planning, a standing committee of the City Council. One member of the standing committee serves on the City Plan Commission as an ex officio member. The opinions of this standing committee on the recommendations of the City Plan Commission are employed by the City Council in acting upon the issues involved.

Most of the individuals in these four groups have served many years in positions directly related to the implementation of the officially adopted master plan. A few key persons have occupied policy making positions since before the adoption of the plan. Many were instrumental in the creation of the plan itself. Personnel turnover in each of the four agencies has been so minor that the excuse that personnel changeover has reduced the effectiveness of planning in Lansing is not available. In

brief, every possible chance related to personnel for carrying out the Official City Plan has been present.

#### **The Nature of the Practice of Spot Zoning in Lansing**

Between August 31, 1942, the date of the passage of the present zoning ordinance of the City of Lansing, and January 29, 1957, the City Council amended the zoning map 410 times. The records pertaining to each of these 410 amendments were examined for the following information:

1. Legal description of the properties involved.
2. The zone classification of the property prior to its re-zoning.
3. The zone classification of the property after its re-zoning.
4. The planned use of the property involved as indicated by the Official City Plan.
5. The land use surrounding the property re-zoned.
6. The qualifications attached to the re-zoning by the City Council.
7. The initiator of the petition or recommendation for the re-zoning.
8. The date of the petition or recommendation.
9. The date of the public hearing.
10. Protests registered at the public hearing.
11. The voting record of the City Council on the re-zoning.
12. The date of the re-zoning.

Of the 410 amendments, 351 were found to be in that area covered by the Official City Plan. Fifty-nine amendments were made in that portion of the Everett School District area not covered by the plan. The Everett School District was annexed to the city in 1951 and by ordinance

was automatically classified as "A" One-family Residential.<sup>26</sup> Two-hundred and thirty-two of the 410 amendments for areas included in the Official City Plan were found to be not in accord with the Plan and as such were labeled as "spot zones." Plate 4 indicates the location of these 232 zones.

Further analysis of the re-zonings showed that of the 232 spot zones, 168 parcels classified as residential in the Official City Plan were re-zoned to a commercial classification. An additional 26 parcels lying within residential districts in the Official City Plan were re-zoned to an industrial classification. Plate 5 shows the prior zoning district classification of all spot zonings. The prevalence of commercial spot zoning is illustrated in Plate 6, "Spot Zone Characteristics by General Land Use Type." Implicit in this analysis is the conclusion that on 194 occasions the City Council of the City of Lansing has legally sanctioned the use of a parcel of property which, in a residential district, would "have a tendency soon to break down the quality of that district . . . and depreciate the quality of the life of the residents of the district."<sup>27</sup>

This conclusion could be countered with the argument that as the Official City Plan ages, the evidence and conditions which prompted the considerations leading to its design become less significant. The passage of time, understandably, could bring about unforeseen conditions which would alter the master plan. The unforeseen condition could produce a situation wherein a re-zoning, although not in accord with the Official

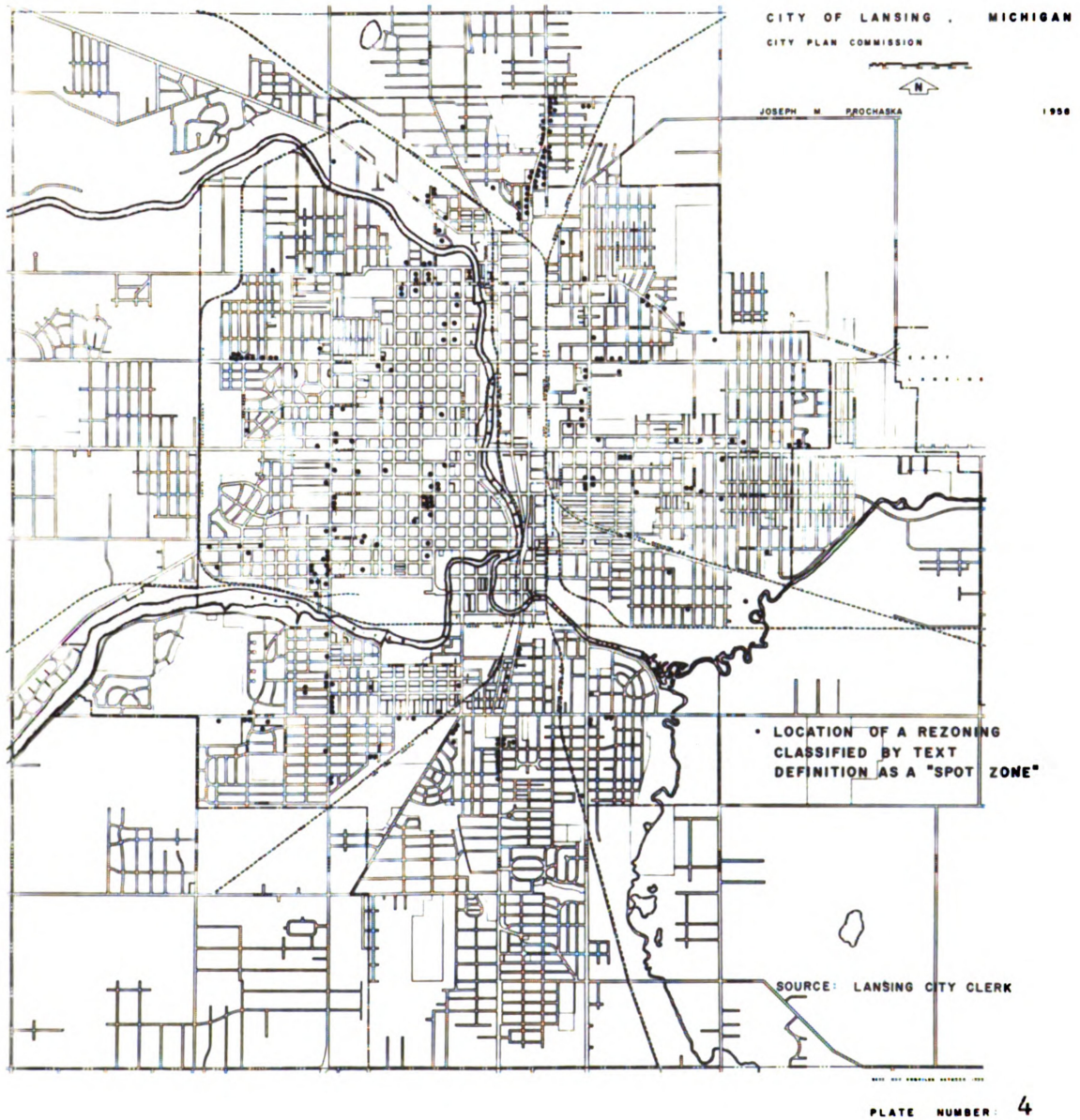
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<sup>26</sup>City of Lansing, Zoning Ordinance, (1942).

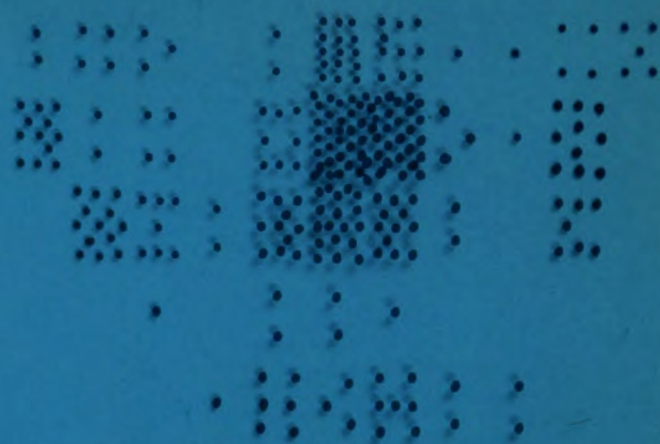
<sup>27</sup>Such must be the conclusion if the findings of the 1932 President's Conference on Home Building and Home Ownership are accepted. Supra, Chapter 1, p. 4.



## SPOT ZONINGS: 1942-1957







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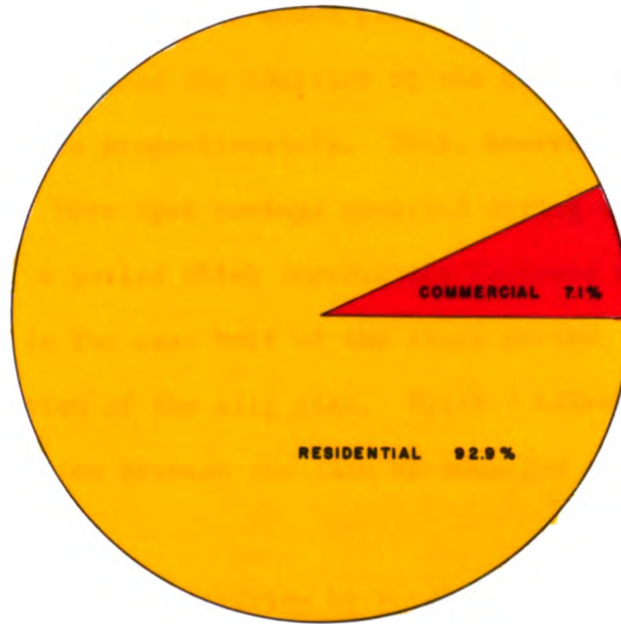


## DISTRICT CLASSIFICATION AFTER REZONING

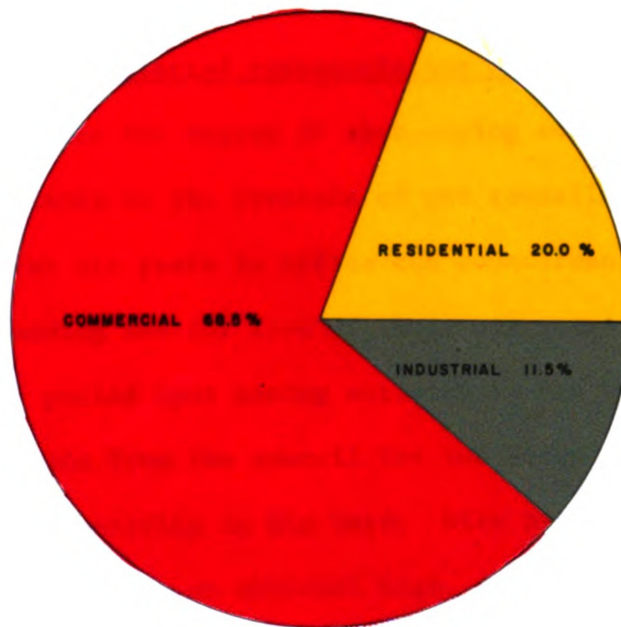
		RESIDENTIAL							COMMERCIAL					INDUSTRIAL	
		A-A	A	B	C	D-M	D	D-I	E	F	J	G	G-2	H	I
DISTRICT CLASSIFICATION PRIOR TO REZONING	RESIDENTIAL	A-A													
		A			2	4	3		2	15	10	1	1	4	5
		B			12	2	4		8	32	27	3	1	10	
		C				13	7	2	11	18	12	2		7	
		D-M					1		2	2	1				
		D						1	6	3	7	2	2		
		D-I													
DISTRICT CLASSIFICATION PRIOR TO REZONING	COMMERCIAL	E										1			
		F							3		3	1	1	3	
		J					2			2					
		G													
		G-2													
DISTRICT CLASSIFICATION PRIOR TO REZONING	INDUSTRIAL	H													
		I													

## SPOT ZONE CHARACTERISTICS BY DISTRICT CLASSIFICATION

SOURCE: LANSING CITY CLERK



USE CLASSIFICATION PRIOR TO REZONING



USE CLASSIFICATION AFTER REZONING

SPOT ZONE CHARACTERISTICS BY GENERAL LAND USE

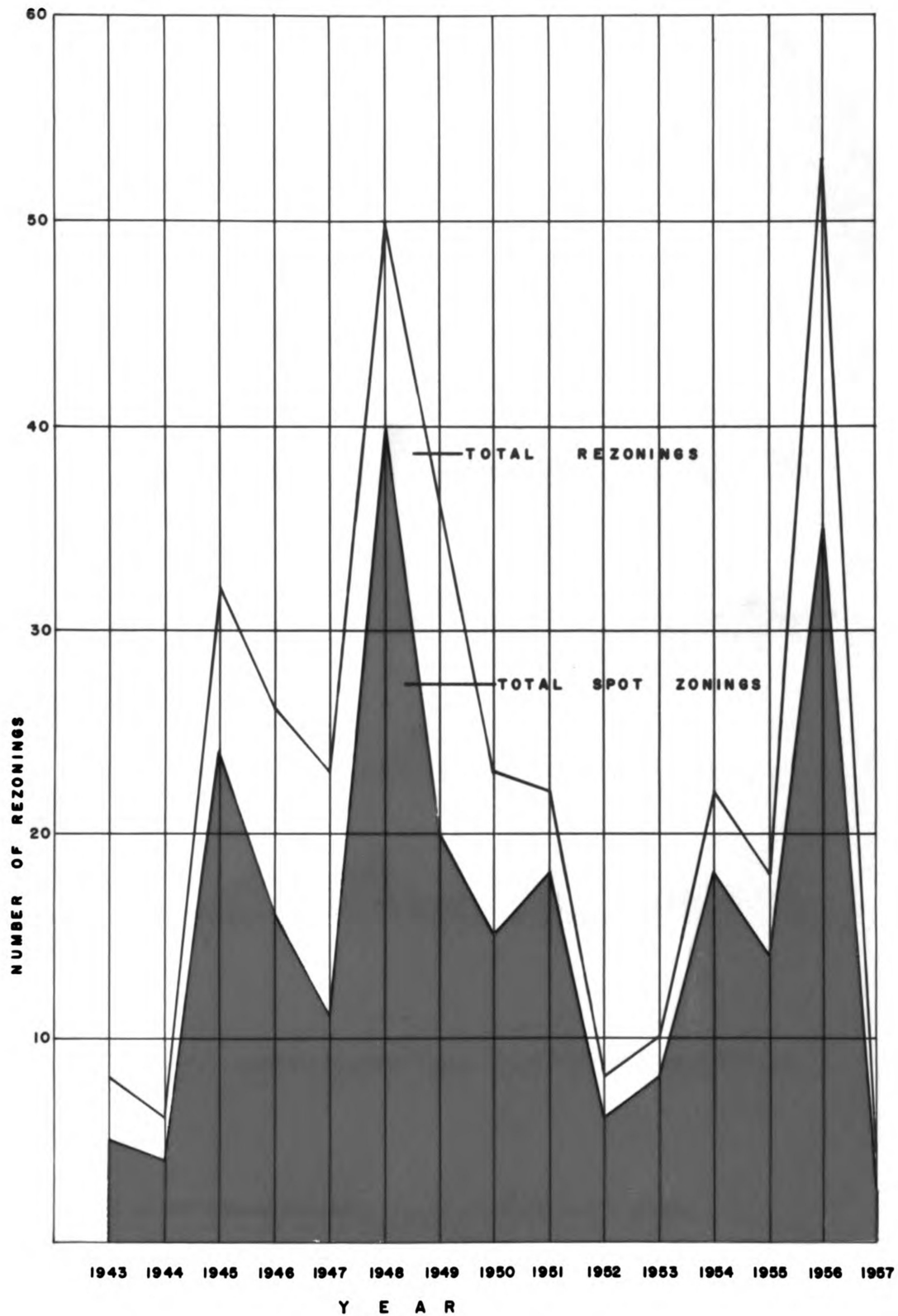
SOURCE LANSING CITY CLERK

City Plan, would be in accord with sound planning principles. As each successive year passed beyond the adoption of the city plan, these instances would increase proportionately. This, however, has not been the case in Lansing. More spot zonings occurred during the first half of the study period, a period which immediately followed the adoption of the city plan, than in the last half of the study period, eight or more years after the adoption of the city plan. Plate 7 illustrates the complete lack of correlation between the time of adoption of the plan and spot zoning activity.

Plate 8, "Spot Zoning Activity by Wards and Years," did not indicate any relationship between the incidence of spot zoning activity and the age of the Official City Plan. If any conclusion was to be drawn, it was that in some Wards there existed a high correlation between spot zoning activity and the duly elected representative of that Ward on the City Council. In one instance the degree of spot zoning activity in the Ward could be directly related to the presence of one councilman on the council. During his first six years in office the councilman also served on the Committee on Planning and for five of those six years on the City Plan Commission. In this period spot zoning activity in his Ward was abnormally high. His absence from the council for two years showed up in a decline in spot zoning activity in his Ward. With his re-election, spot zoning activity again rose to an abnormal high.

Analysis showed this as not an uncommon correlation. Other Wards presented the same relationship to a slightly lesser degree. The relationship was more in evidence when the Ward was represented by a councilman who, during his term in office, also served on both the City Plan Commission and the Committee on Planning concurrently.

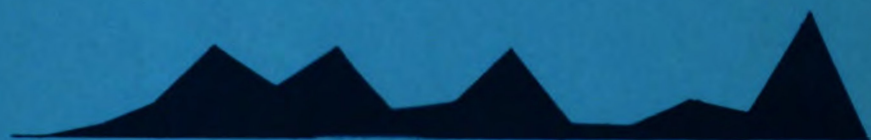


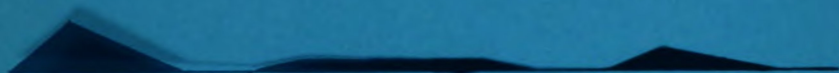


REZONING ACTIVITY BY YEAR

SOURCE: LANSING CITY CLERK

Plate Number: 7







	Y E A R														
	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957
1	1	2	9	4	5	14	5	1	1	0	5	7	2	6	0
2	0	0	1	2	0	0	1	1	1	1	0	0	2	4	0
3	2	0	9	1	0	6	3	2	2	2	0	4	4	7	2
4	1	0	0	1	0	10	3	5	3	0	0	2	1	6	0
5	0	0	1	0	1	1	5	1	1	0	1	0	1	1	0
6	0	1	3	7	4	7	2	5	7	1	1	3	2	10	0
7	1	0	0	1	0	1	1	0	1	2	1	1	2	1	0
8	0	1	1	0	1	0	0	0	2	0	0	1	0	0	0

## SPOT ZONING ACTIVITY BY WARD AND YEAR

SOURCE: LANSING CITY CLERK

No correlation could be established to support the assumption that the longer a councilman holds office the more familiar he becomes with planning and the closer he adheres to the Official City Plan. Those Wards represented by relatively few councilmen during the study period showed approximately the same pattern of spot zoning activity as those wards with a high turnover of councilmen.

The only conclusion available is that responsibility for spot zoning activity in the City Council is not one that can be attributed to the City Council as a body, but rather attributable to the recognition given to desires of individual council members. In other words the individual councilman spoke for his Ward, and other concurred.

On six occasions, council action in spot zoning has resulted in an economic gain to individual members of the council. On four of these occasions, the council re-zoned property in the face of great protests from adjoining property owners. The City Plan Commission recommended in favor of re-zoning in four of the six cases. The facts of each of the six cases are as follows:

Map Amendment Number 19 (1118 and 1122 Olds Avenue)

On November 6, 1944, newly elected Councilman Ralph M. Weigandt petitioned the City Council for a change in zoning classification for property owned by him at the above addresses from "A" One-family Residential to "D" Apartment. The Official City Plan classified the area in which these parcels were located as "Residential" which did not include multiple dwellings. Only one non-conforming use existed in the block within which the two addresses were located. All other land uses conformed to the Official City Plan. The City Plan Commission recommended the change be granted. No protests were registered either in writing

or at the February 26, 1945, public hearing. On the same date, the City Council unanimously passed the amendment.

Map Amendment Number 114 (312-316 Shepard and 317 Allen)

On March 15, 1948, recently re-elected Councilman Fred L. Kircher petitioned the City Council for a change in zoning classification for property owned by him at the above addresses from "C" Two-family Residential to "J" Parking. The Official City Plan classified the parcels in question as "Residential." No non-conforming uses existed in the block within which were located the parcels re-zoned, and only two non-conforming uses existed within a three block radius surrounding the property. All other land uses conformed to the Official City Plan. Mr. Kircher stated as the reason for the appeal that his commercial property, which this property adjoined, needed additional parking space. Directly across the street from Mr. Kircher's property was an elementary school which was constructed many years prior to the construction of stores on Mr. Kircher's property. The City Plan Commission recommended the change be granted. No protests, either in writing or at the public hearing on June 1, 1948, were registered, and on the same date, the City Council unanimously passed the amendment.

Map Amendment Number 137 (Lots 34, 35 and 36 Elite Subdivision -- N. W. corner of West and Main).

On June 26, 1948, W. W. Watson, owner of the above property, petitioned the City Council for a change in zoning classification from "B" Residential to "F" Commercial. The reason given by Mr. Watson for the change was: "Because it is now in non-conforming zoning, so it can be zoned correctly for future building." The non-conforming use involved was

a drug store leased to Councilman Gaylord Wortz. No other non-conforming use existed in the block and only one other non-conforming use existed within a two block radius of the property. The Official City Plan classified the neighborhood within which the property was located as "Residential". The City Plan Commission recommended the change be granted. On July 26, 1948, at the public hearing, forty-two residents of the neighborhood involved protested the re-zoning. A letter signed by them set forth the reasons for their protest against the proposed re-zoning. In summary, their protest was based on the belief that the extension of a commercial land use into a residential district represented an encroachment injurious to both the character of the neighborhood and the value of residential property. No action was taken on the proposed change on this date. By council vote, the question was tabled for future discussion. The residents who protested the change were assured by their other Ward representative, Councilman J. K. Reed, that should the council at some date in the future reconsider the matter, the persons who had an interest in the re-zoning, especially those who had protested, would be notified in writing. On November 1, 1948, without notice, the City Council voted unanimously to re-zone the property. A letter from twenty-five of the residents of the adjoining area, submitted to the City Council on November 15, 1948, informed the council of the promise of Councilman Reed and reiterated the feelings of the neighborhood in regard to the re-zoning. Emphasis was again placed on the loss in property values resulting from the encroachment of a commercial land use in a residential district. The letter was referred to the Committee on Planning which further referred it to the City Attorney, Mr. Van Note. On November 29, 1948, the Committee on Planning reported: "Mr. Van Note, City Attorney, reports this

re-zoning has been completed according to law and no further changes can be made." By stating that "no further changes can be made" Mr. Van Note acted contrary to the Michigan State Zoning Enabling Act which says:

Any party aggrieved by an order, determination or decision of any officer, agency, board, commission, board of appeals, or the legislative body of any city or village, made pursuant to the provisions of Section 3a of this act may obtain a review thereof both on the facts and the law, in the circuit court for the county wherein the property involved or some part thereof, is situated.<sup>28</sup>

Map Amendment Number 188 (316 Shepard and 317 Allen)

On February 27, 1950, Councilman Fred L. Kircher petitioned the City Council to re-zone the above mentioned property from its "J" Parking classification to "F" Commercial. Mr. Kircher's petition cited as reason for the appeal: "For extension of commercial building." On March 15, 1948, Mr. Kircher's appeal for a change in zoning from "C" Residential to "J" Parking for the same property was based on a need for additional parking space for his existing commercial building. The Official City Plan still classified the area as "Residential" and no non-conforming uses had appeared to change the tenor of the neighborhood. The City Plan Commission again recommended the re-zoning be granted. In the March 27, 1950, public hearing protests from the property owners surrounding Mr. Kircher's property on three sides voiced strong objection to the proposed change. Having listened to the protests, the City Council voted unanimously to re-zone the area from "J" Parking to "F" Commercial. A written protest by residents of the neighborhood dated April 3, 1950, stated the following:

Request the reconsideration at this time because of a misunderstanding which arose last week at the council meeting whereby a large

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<sup>28</sup>Michigan Act 207 of the Public Acts of 1921 as amended (Section 125.590 of the Compiled Laws).

delegation of Fifth Ward property owners were told that this re-zoning would not be voted on that same evening, but would be considered further due to the petition and numerous protests.

At the close of the hearing, the delegation being so informed, left the council meeting believing that they had more time and would be given another opportunity to present their case. They possessed additional evidence at that time, but felt that the council members had heard enough for one evening regarding the matter and would want to investigate further. It came as a distinct shock to all of the property owners when they heard that the re-zoning was voted on and passed that same evening.

On the basis of this letter Councilman John H. Russell moved to rescind the action of the council regarding the re-zoning of Councilman Kircher's property. This resolution was tabled on a motion by Councilman Fred L. Kircher. No further action was ever taken in the matter.

Map Amendment Number 312 (S. W. Corner of Nipp and Main)

On January 17, 1955, Councilman Stanley G. Peck, Sr. petitioned the City Council for a change in the zoning classification of the above property from "B" Residential to "E-1" Commercial Drive-in. No reason for the change was stated on the petition. The only non-residential land use within a two block radius existed in the block north of Mr. Peck's vacant parcel; a drug store which had previously been classified as non-conforming, but which had been re-zoned to "F" Commercial on November 1, 1948. This drug store was leased by Mr. Gaylord Wortz, a former councilman. The Official City Plan classified the entire neighborhood as "Residential." Directly across the street to the east was an elementary school of recent construction. The City Plan Commission voted to recommend against the re-zoning. Protests from residents of the neighborhood involved were voiced at the February 28, 1955, public hearing. As a result of the commission's recommendations and the protests the City Council voted to table the matter for future consideration. On

March 7, 1955, the parcel was re-zoned to "E-1" Commercial. Two members of the council voted against the re-zoning. The property remained vacant until August 2, 1956, at which time Mr. Peck sold the two lots involved to the Pure Oil Company which shortly afterward constructed a gasoline service station on them.

Map Amendment Number 313 (N.W. Corner of West Main and Everett Drive)

On January 24, 1955, ex-councilman Gaylord Wortz petitioned the City Council for a change in the zoning classification for the above property from "B" Residential to "E-1" Commercial Drive-In. The reason stated on the petition was: "To build a drive-in drug store with owner's apartment above." Mr. Wortz was not the owner, the property being listed in the name of Alex Alexander. The three lots involved were located one block west of the drug store formerly re-zoned to "F" Commercial and leased by Mr. Wortz from Mr. W. W. Watson. No other non-conforming uses beside the one mentioned in the discussion of Map Amendment Number 137 existed within a two block radius of the property. The Official City Plan classified the area as "Residential". The City Plan Commission voted to recommend against the re-zoning. At the public hearing on February 28, 1955, those same residents who had protested against the re-zoning of Mr. Peck's property, discussed above as Map Amendment Number 312, also protested against the re-zoning requested in Mr. Wortz's petition. Again, as in Amendment 312, the City Council, as a result of the commission's recommendations and the protests of the residents of the neighborhood, moved to table the matter for future discussion, however, as in the disposition of Amendment 312, on March 7, 1955, the parcel was re-zoned to "E-1" Commercial Drive-In.

In an examination of the procedures involved in the above six amendments, several factors stand out:

1. All of the amendments were definitely not in accord with the Official City Plan.
2. Five of the amendments were concerned with commercial re-zonings in districts which were decidedly residential. The remaining re-zoning was to an apartment classification.
3. Few non-residential land uses existed in the neighborhoods involved besides the properties re-zoned.
4. In five of the six cases, those individuals which stood to gain the most from the re-zonings were also those who decided whether or not the re-zoning was to be granted. In the sixth case, a former councilman was involved.
5. In four of the cases re-zoning was decided in the face of opposition from the City Plan Commission, great protest from the residents of the neighborhoods involved, or both.<sup>29</sup>

What is of even more significance in this subversive alteration

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<sup>29</sup> On July 29, 1958 the Lansing State Journal quoted Councilman Fred L. Kircher as saying, "It has always been the policy of the council to adhere to the wishes of the majority of the people involved in zoning matters, and that will continue to be our policy." Implied in this statement is the suggestion that the City Council has some formula wherein they determine the following:

- (1) What constitutes involvement in zoning matters.
- (2) What constitutes a majority of people involved.

An examination of records pertaining to the actions of the City Council and Mr. Kircher in zoning matters has not revealed such a formula. It is also interesting to note that the policy Councilman Kircher says the City Council adheres to is contradictory to a basic tenet of sound planning; that the prime consideration in the determination of a zoning question is not one of special interests, but of the best interests of the community at large. For a more complete examination of this point see: James Metzenbaum, The Law of Zoning, (2nd Ed.; New York, Baker, Voohis & Company, Inc., 1955) II, Chapter X-1-(3).



of the Official City Plan through spot zoning than the City Council's sanctions of the practice is the stand consistently taken by the City Plan Commission on spot zoning. One of the most valid arguments for a commission which serves without pay is that such a commission will not be hindered in its work by the threat of the loss of a job. This freedom of action has not been exercised, apparently, in the Lansing City Plan Commission, since between 1942 and 1957 the commission recommended that the spot zonings be permitted in 93.6% of the appeals granted by the City Council. In only fifteen of the re-zonings did the City Plan Commission specifically recommend denial of the appeal. Twelve of these latter recommendations occurred after 1953, a fact difficult to reconcile with the previously mentioned logic regarding the age of the master plan and the incidence of re-zonings not in accord with the plan. In this almost unanimous approval of spot zoning by the commission lies another significant fact; that on sixteen occasions the City Plan Commission was the initiator of the request for the re-zoning. That eleven of these requests were made in the first six years following the adoption of the master plan is again difficult to reconcile with logic.

Few records are available for relating the recommendations of the planning staff to the City Plan Commission, but the strong inter-relationship of the personnel involved in the two groups indicates a strong concurrence in the recommendations of the two bodies relating to individual re-zonings. It seems that had the position of the technical staff consistently been one of opposition to the recorded position of the City Plan Commission, turnover of the technical staff would have been far greater than it has been.

### The Effects of Spot Zoning on the Master Plan

One of the most important goals of city planning is the guidance of a community's growth in an orderly fashion. Any factor which advances a community toward this goal is an asset to planning and any factor which deters the community in this direction works in opposition to proper planning. Orderliness within a community implies, among other things, a homogenous grouping of land uses in a manner which will promote the best interests of the citizens of the community. Furthermore, it is also desirable that within this homogeneity there be present a certain degree of stability. The indiscriminate mixing of land uses in a neighborhood changes that neighborhood's character and quality and does little to insure the residents of the area of a pleasant and safe environment. For this reason, much activity in planning is directly concerned with the preservation of neighborhood quality and the elimination of those land uses which disrupt stability and adversely affect the character of the area, be it residential, commercial or industrial.

Spot zoning works in direct opposition to sound planning. The relationship of a spot zone to its neighbors has been clearly established. That the introduction of a non-residential land use into a residential area does produce adverse effects upon the neighborhood is a basic tenet of planning. To show the gross effect upon city planning, however, it was not enough to prove that one non-residential land use in one neighborhood produced an adverse effect. It was deemed necessary in this study to consider the correlation between the overall practice of spot zoning and the general classifications of housing quality. Varin categorized the residential areas of Lansing into three classifications:

1. Stable: An area characterized predominantly by dwellings distributed at a reasonable density, in no need of major

repair, with no deteriorating intrusion of non-residential uses or heavy traffic on residential streets; but having adequate open areas, recreation space, and utility systems.

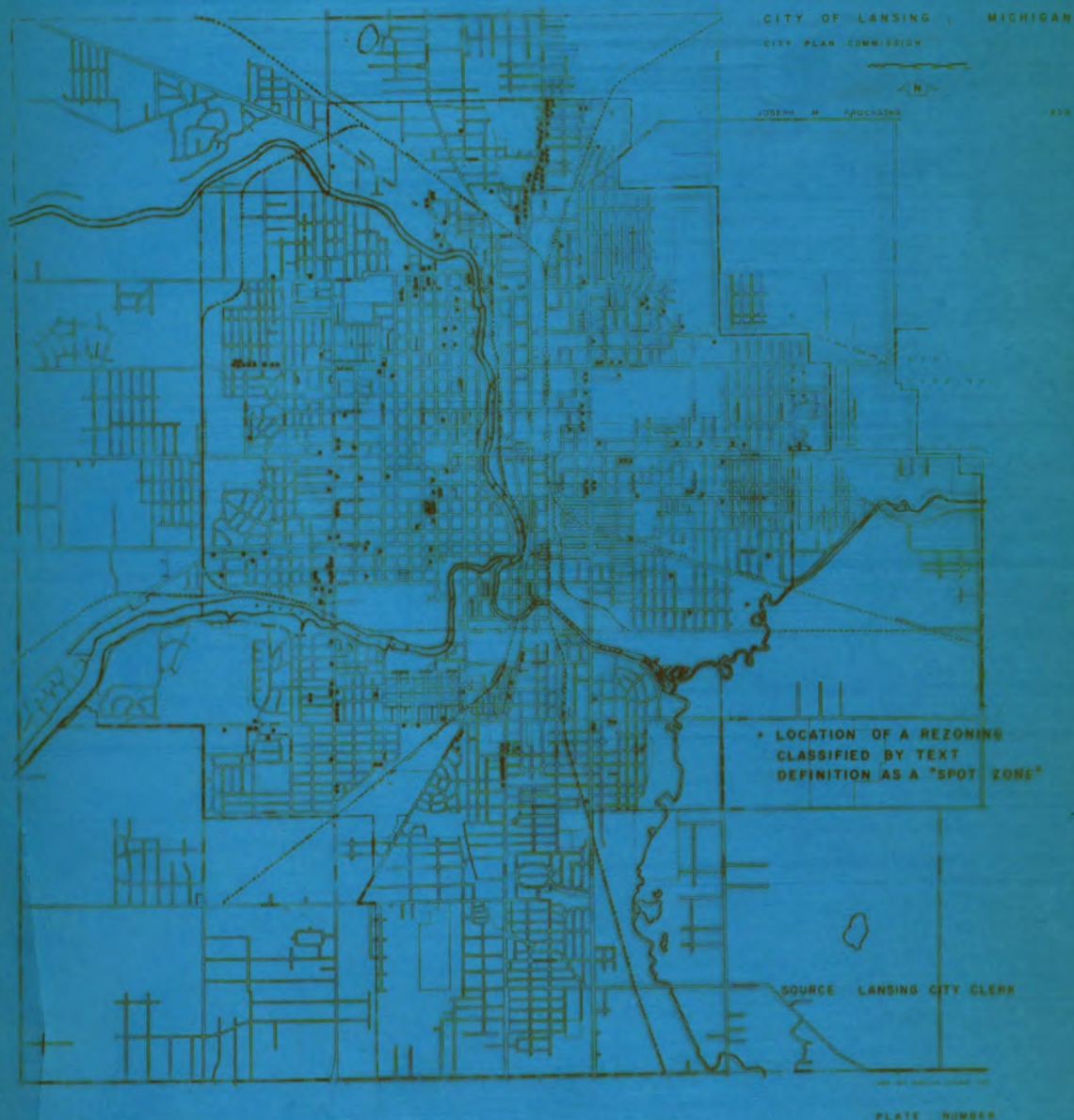
2. **Conservation:** An area characterized by the beginnings of blight, resulting from the lack of some essential community service in adequate quantity or quality, high or increasing residential density, gradual intrusion of non-residential uses, or a combination of these and other factors reflecting poor community planning. Such areas require immediate measures to conserve the best aspects of the neighborhood and to eliminate the undesirable elements that will otherwise continue to exert a blighting influence.
3. **Blighted:** A blighted area is one which, because of obsolescence or deterioration of structures, existence of non-conforming uses or nuisances, overcrowding on the land or of people in dwellings, lack of open space, congestion, lack of essential community facilities and services, or other factors, has become an economic and social liability to the community. These areas may require major repair and rehabilitation, or may have deteriorated to the point where clearance and re-development is necessary.<sup>30</sup>

Plate 9 illustrates the relationship between the incidence of spot zoning and Varin's classification of housing quality. Of the 194 residential parcels re-zoned to either commercial or industrial classifications, 115 occurred in the conservation areas, while 23 occurred in the blighted areas and 16 occurred in the areas designated as stable. There does not exist a similar analysis of housing quality for the time prior to the rezonings, therefore, no statement can be made as to the causal relationship of spot zonings to housing quality on this basis, however, application of the courts' opinions regarding this issue lead to the obvious conclusion that the introduction of 115 non-residential land uses into a conservation district where blight was minimal could only serve to accelerate the spread of the blight already present. By Varin's definition of

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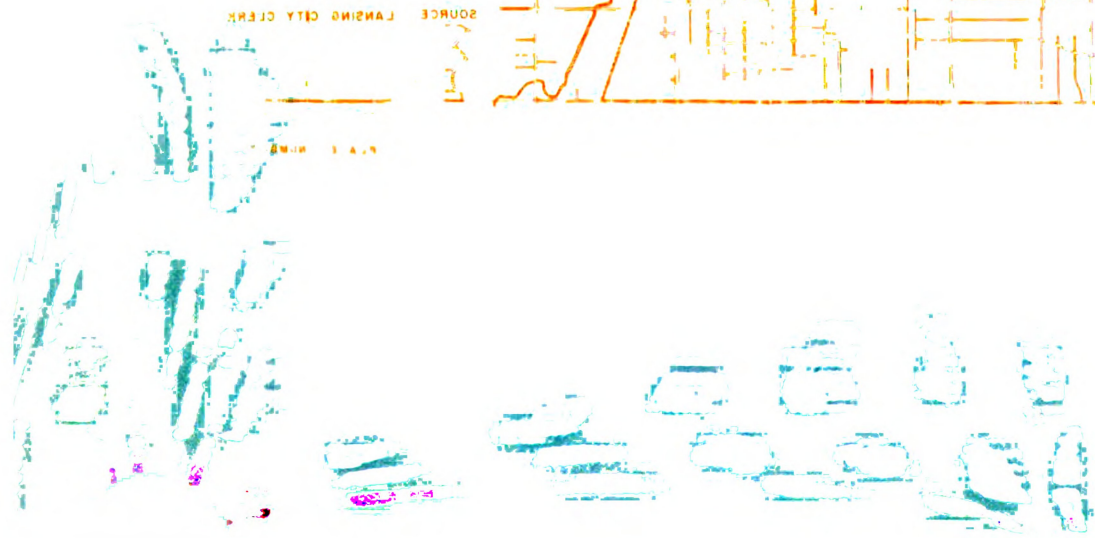
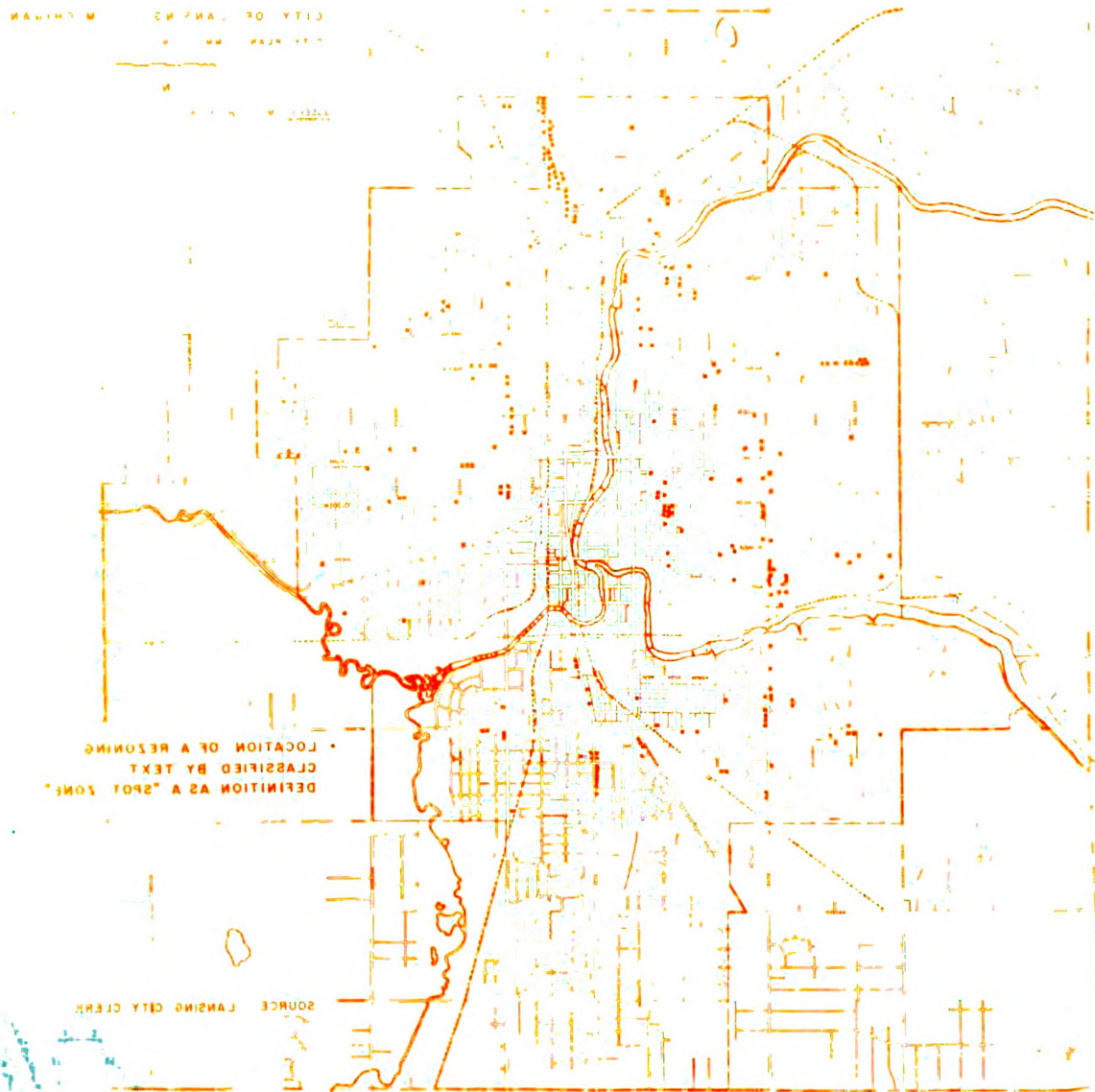
<sup>30</sup> Daniel Winn Varin, "The Gasoline Service Station and Community Development" (unpublished Master's Thesis, Department of Urban Planning and Landscape Architecture, College of Business and Public Service, Michigan State University, 1958), pp. 67-68.

# SPOT ZONINGS: 1942-1957

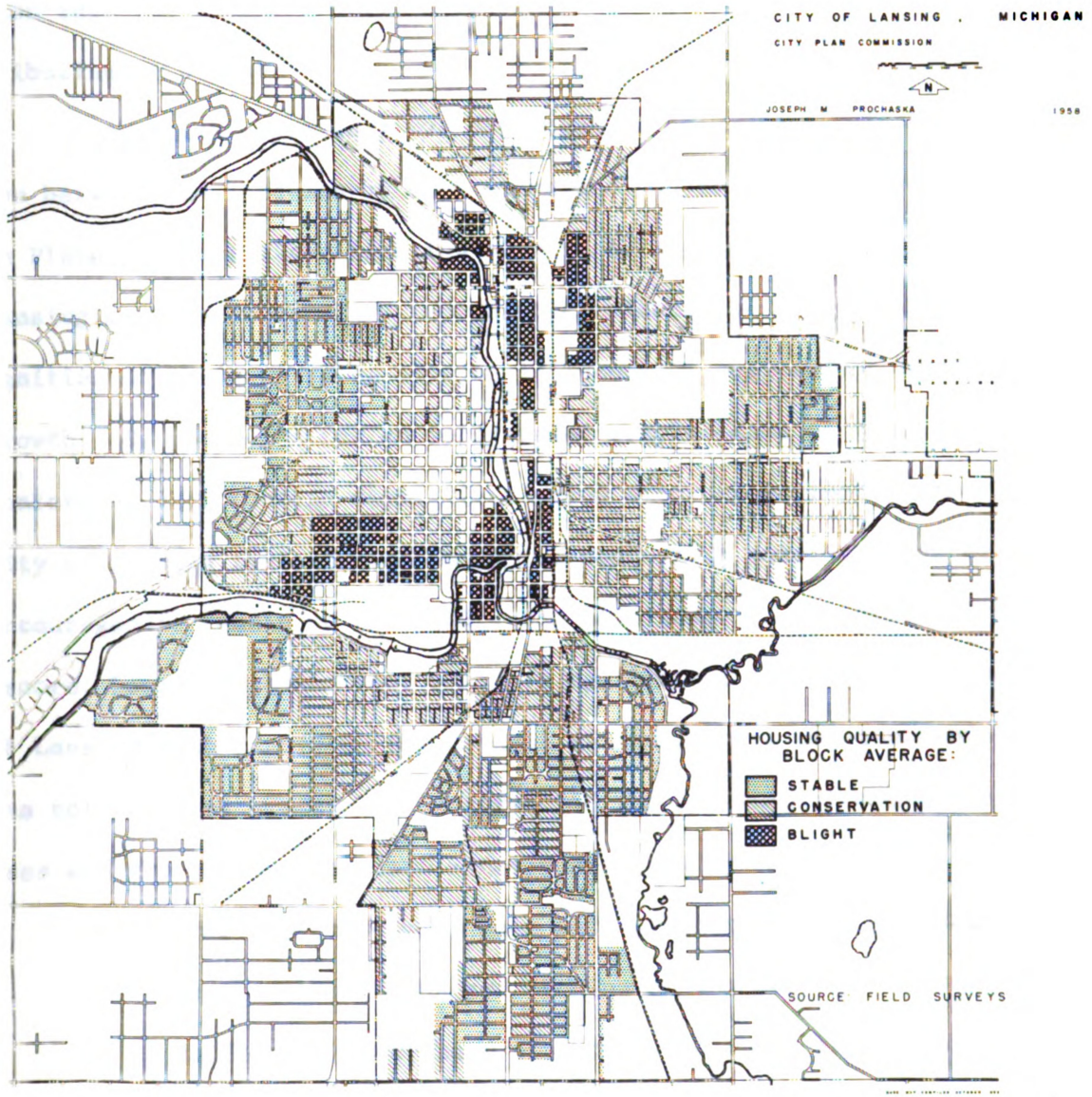




# SPOT ZONING: 1942-1947



# HOUSING QUALITY: 1956



conservation the intrusion of these uses was not only conducive to blight, but also represented poor community planning. The remaining spot zonings which were neither commercial or industrial, but were of a multiple residential nature, served to introduce a higher density of population into the neighborhoods, a factor noted by Varin and others as contributing to blight.

A similar corollary was developed in an analysis of the comparison between the location of spot zones and non-conforming uses as shown in Plate 10. The classification of certain land uses by the City of Lansing as "non-conforming" represented evidence of the community's recognition of their probable adverse influence on desirable community growth. By providing for an accelerated obsolescence of these non-conforming uses through regulations which discouraged improvements, the City of Lansing implied that these non-conforming uses were not to be encouraged to remain in their existing locations.<sup>31</sup> The evidence of record, however, showed that what was spelled out in the law of the City of Lansing with regard to the gradual elimination of non-conforming uses was not what was practiced. Analysis of the location of non-conforming uses and the location of spot zones showed the following facts to be true:

1. Some non-conforming uses were given relatively permanent status through the spot zoning of the parcel. As non-conforming uses these properties were subject to regulations which limited their life span, and consequently, the extent of their adverse effects upon surrounding properties and the community's growth. Spot zoning of the parcels permitted an

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<sup>31</sup>City of Lansing, Zoning Ordinance, (1942).



# SPOT ZONINGS: 1942-1957

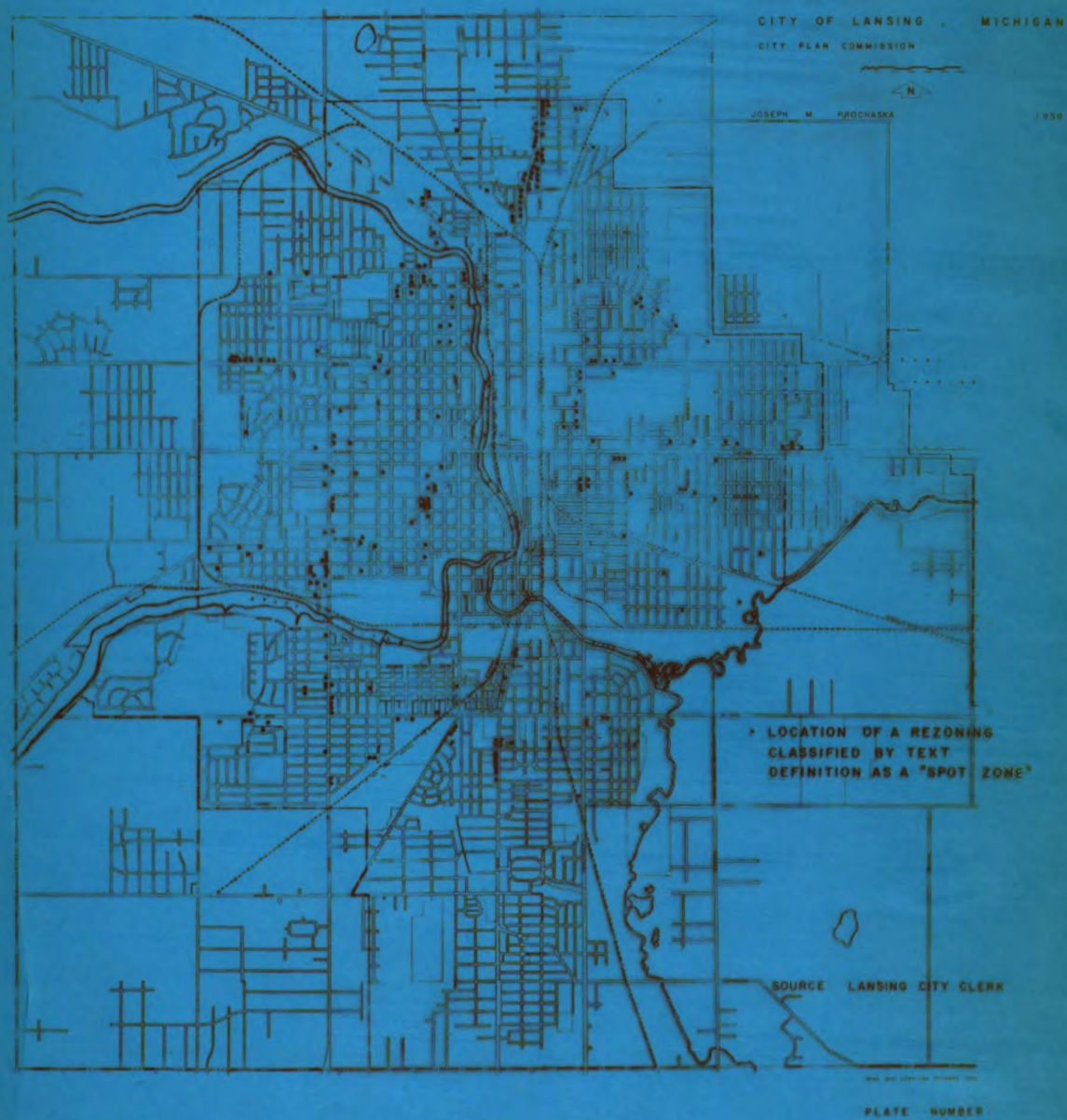
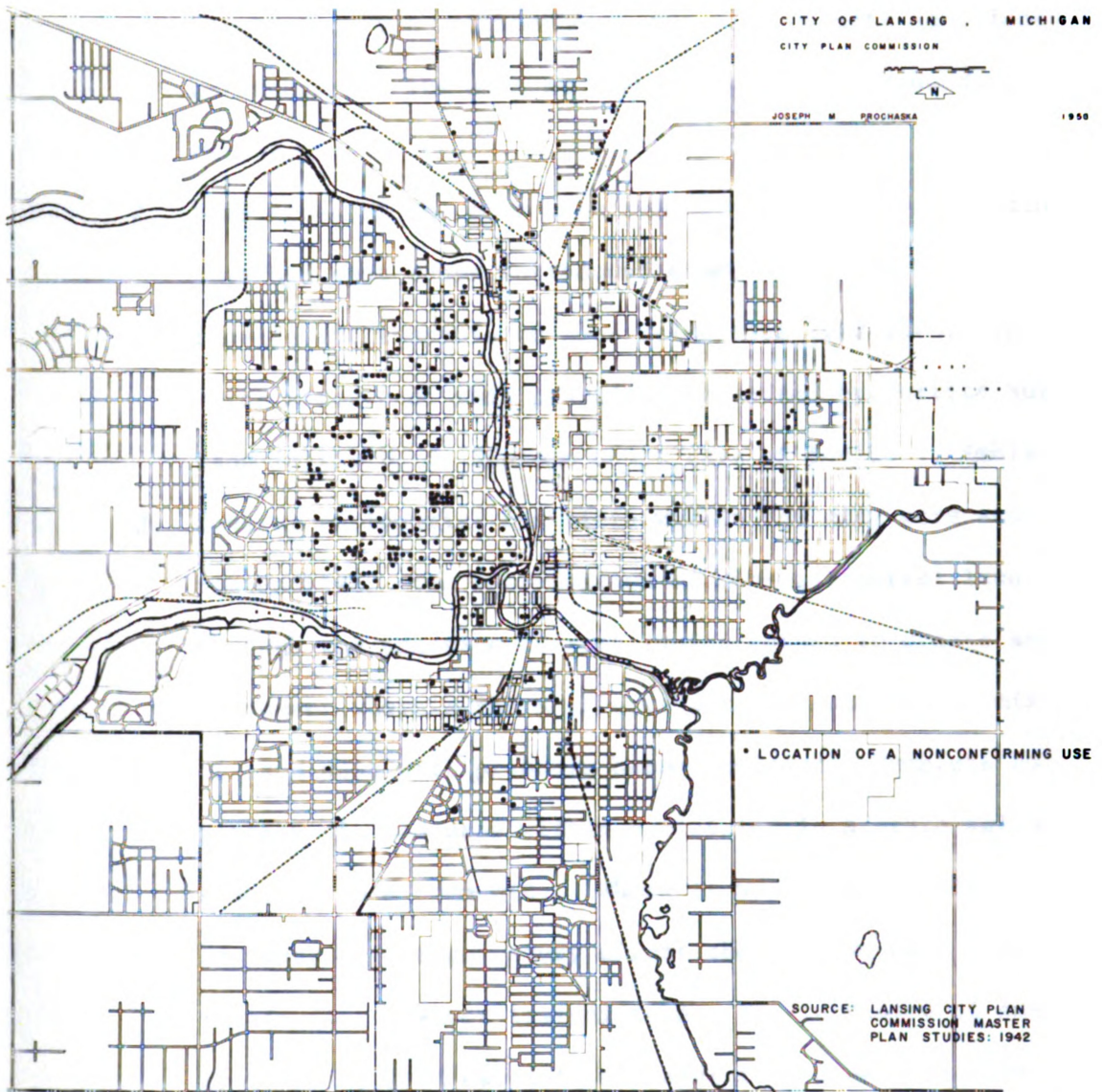




PLATE NUMBER

# NONCONFORMING USES: 1942



expanded use of the property within the limits set forth for the zone classification which, in most cases, differed considerably from the limits set forth for other properties in the neighborhood. Instead of removing a probable source of blight from the neighborhood, the City Council sanctioned its existence and its adverse affects upon the surrounding properties.

2. Some areas of the city with relatively few non-conforming uses had spot zones introduced compounding the blighting influence attributable to non-residential land uses. The adverse effects of this practice were cited by Justice Sutherland in the U. S. Supreme Court case of *Buclid v. Ambler*.<sup>32</sup>
3. Several residential districts within the city were exclusively residential. The introduction of non-residential land uses through the practice of spot zoning served to create an environment wherein those effects attributable to the mixture of land uses will probably become evident. Complete homogeneity of land uses within a district is a state seldom achieved in a community. Where it was achieved, be it by accident or design, every effort should have been made to retain it. However insignificant, the intrusion of one non-residential land use into a residential area will have but one result; the debilitation of the character and quality of the area in which it was introduced.

The most evident indication of a community's desire to guide its

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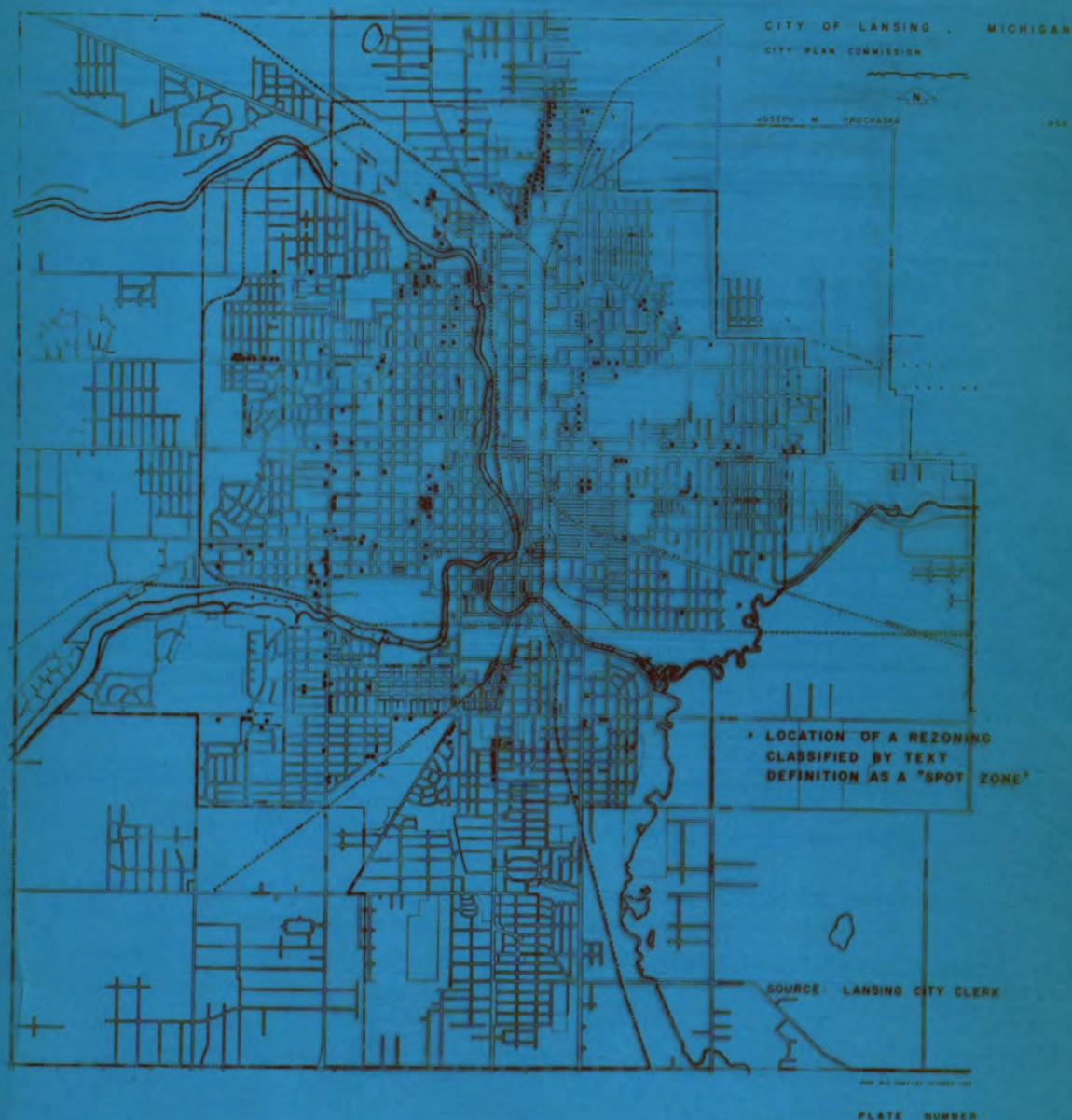
<sup>32</sup>Supra, (Chapter I, p. 10).

growth in an orderly fashion is its creation, adoption and promulgation of a valid comprehensive plan. During this sequence of activities there often occurs events which necessitate the revision of the comprehensive plan. Such occurrences as the creation of a Federal Defense Highway System, heretofore not envisioned, would produce situations which would make alteration of the plan desirable. Federally subsidized urban renewal, to cite another example, has rapidly accelerated the progress of individual plans within communities. Because of these unforeseen events, it was necessary, in the evaluation of the effect of spot zoning upon city planning in Lansing, to recognize those changes which were produced by factors other than spot zoning. Those sections of the city where changes occurred which were not in accord with the Official City Plan were discounted as possible sources of error and were not employed in analysis. Only those areas of the city wherein changes occurred in conformance with the Official City Plan were considered in the evaluation.

A comparison of the Thoroughfare Plan of 1942, Plate 11, The Arterial Plan of 1953, Plate 12, and the Proposed Thoroughfare Plan of 1958, Plate 13, indicated that no radical change occurred in the basic design of the circulation system of the City of Lansing during the study period. Even the minor changes were of such insignificance that they were found to bear little relationship, if any, to the incidence and location of spot zones. In fact, examination showed that most of the thoroughfare changes which did occur during the study period, especially in areas of concentrations of spot zonings, were made in accord with the Official City Plan. In these areas the land uses indicated in the Official City Plan were situated with full cognizance of the proposed thoroughfares and their effect upon the adjacent lands. The reasoning which



# SPOT ZONINGS: 1942-1957





# SPOT ZONING: 1942-1951

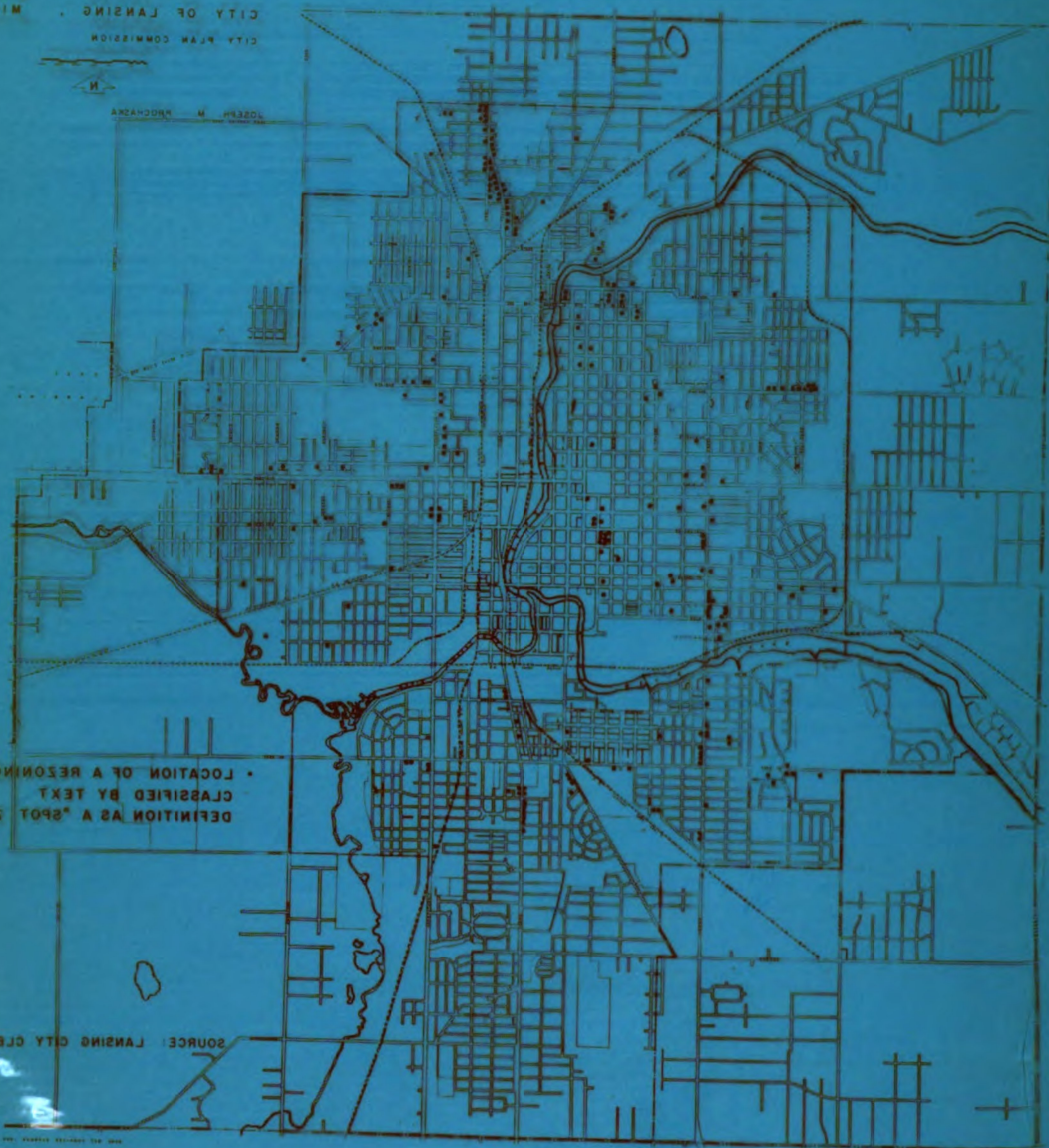
CITY OF LANSING, MICHIGAN  
CITY PLAN COMMISSION

JOSEPH W. WOODWARD  
1951

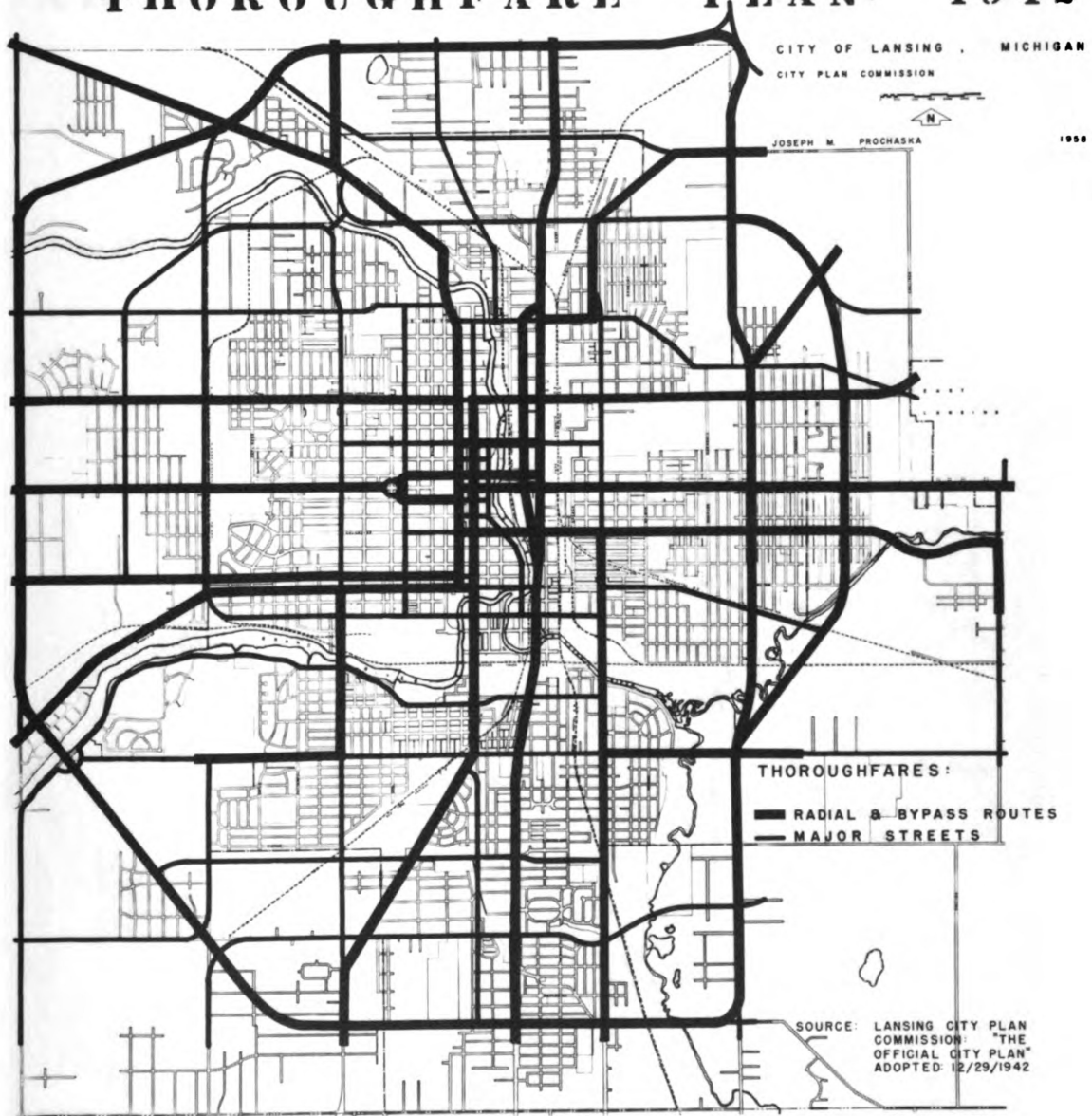
• LOCATION OF A ZONING  
CLASSIFIED BY TEXT  
DEFINITION AS A "SPOT  
ZONE"

SOURCE: LANSING CITY CLERK

PLATE NUMBER

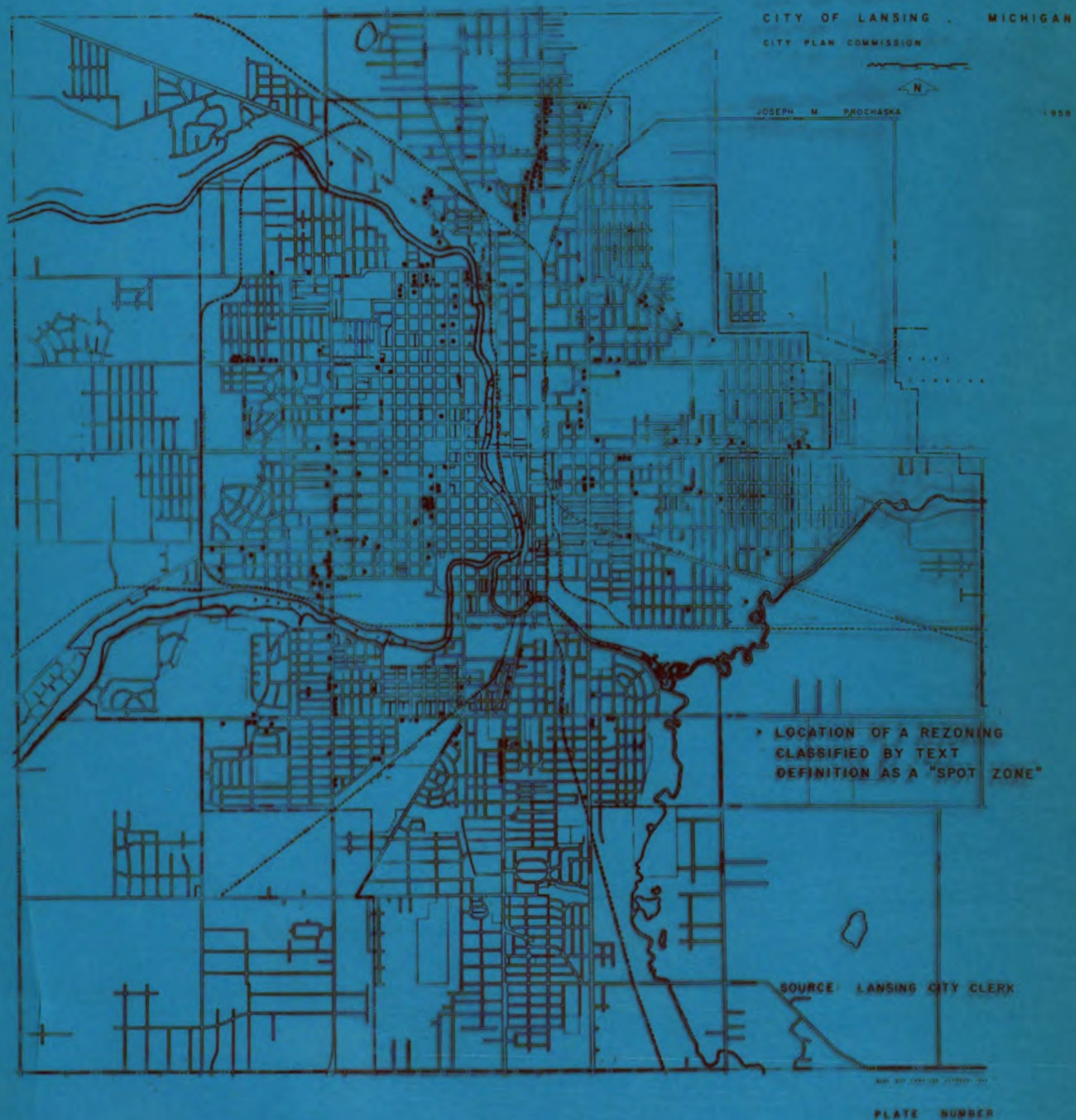


# THOROUGHFARE PLAN: 1942





# SPOT ZONINGS: 1942-1957





SPOT ZONING: 1942-1957

CITY OF LANSING, MICHIGAN  
CITY PLAN COMMISSION

1957

DEFINITION AS A SPOT ZONE  
CLASSIFIED BY TEXT  
LOCATION OF A REZONING

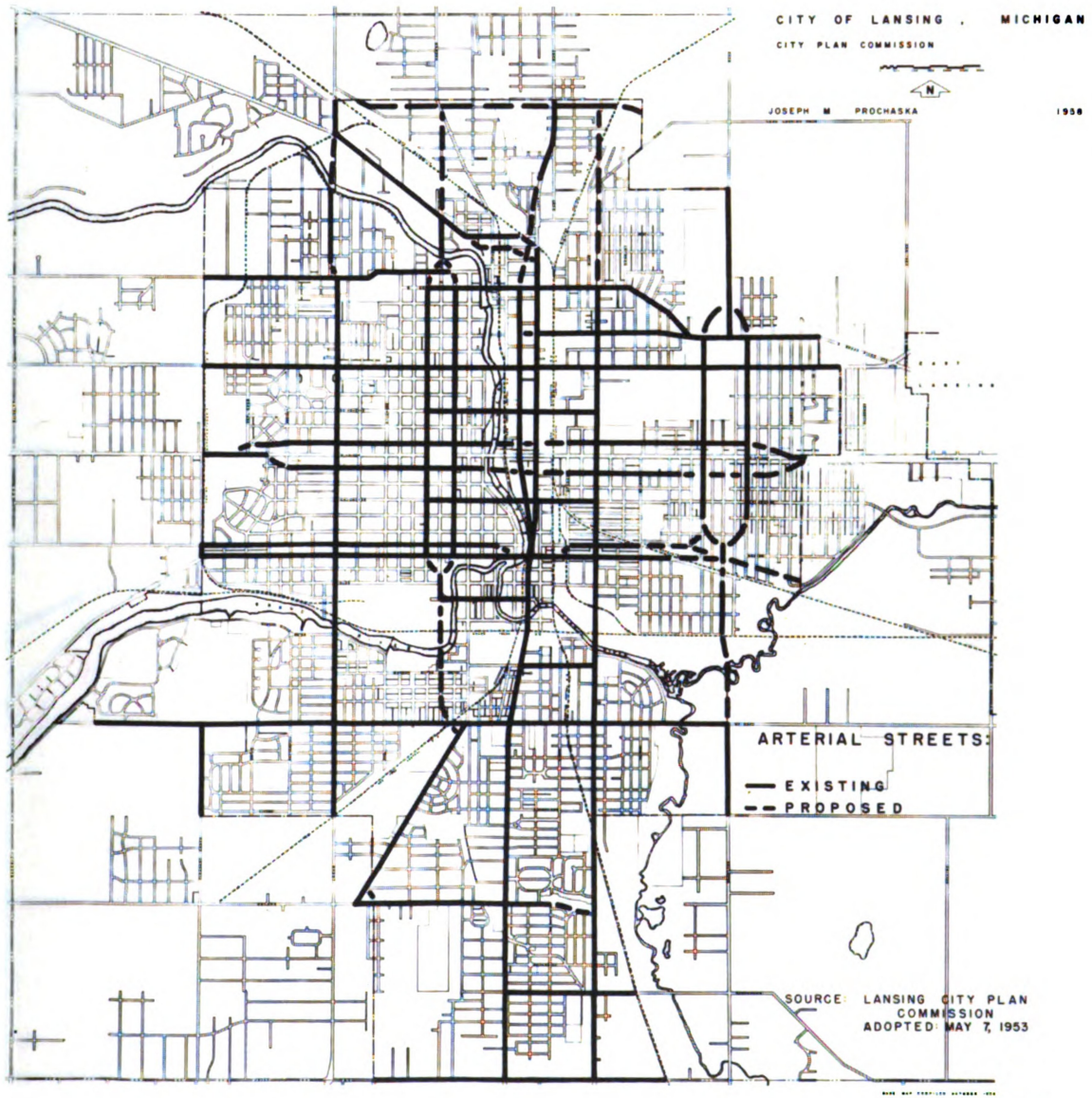
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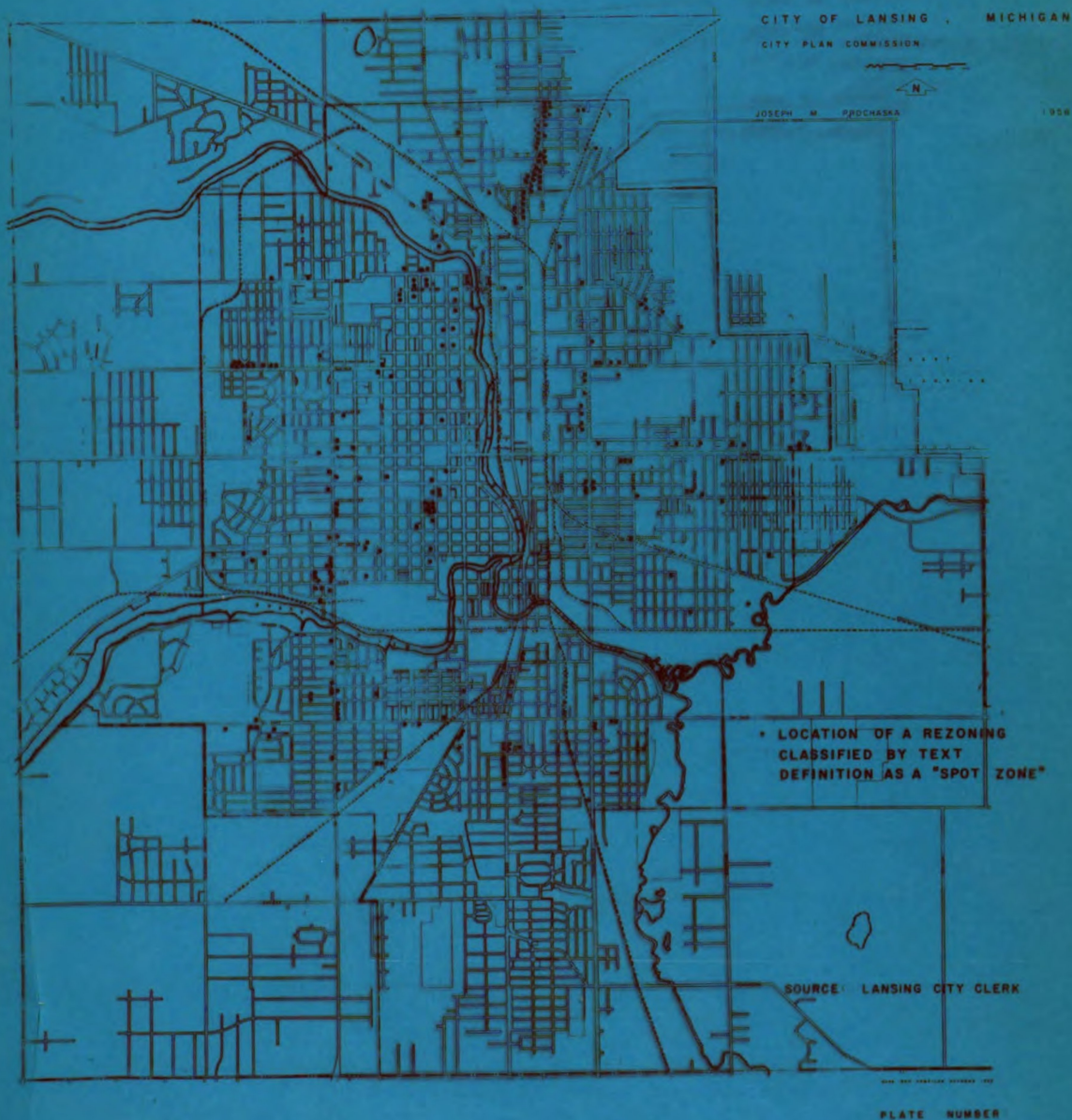


# ARTERIAL STREETS PLAN: 1953



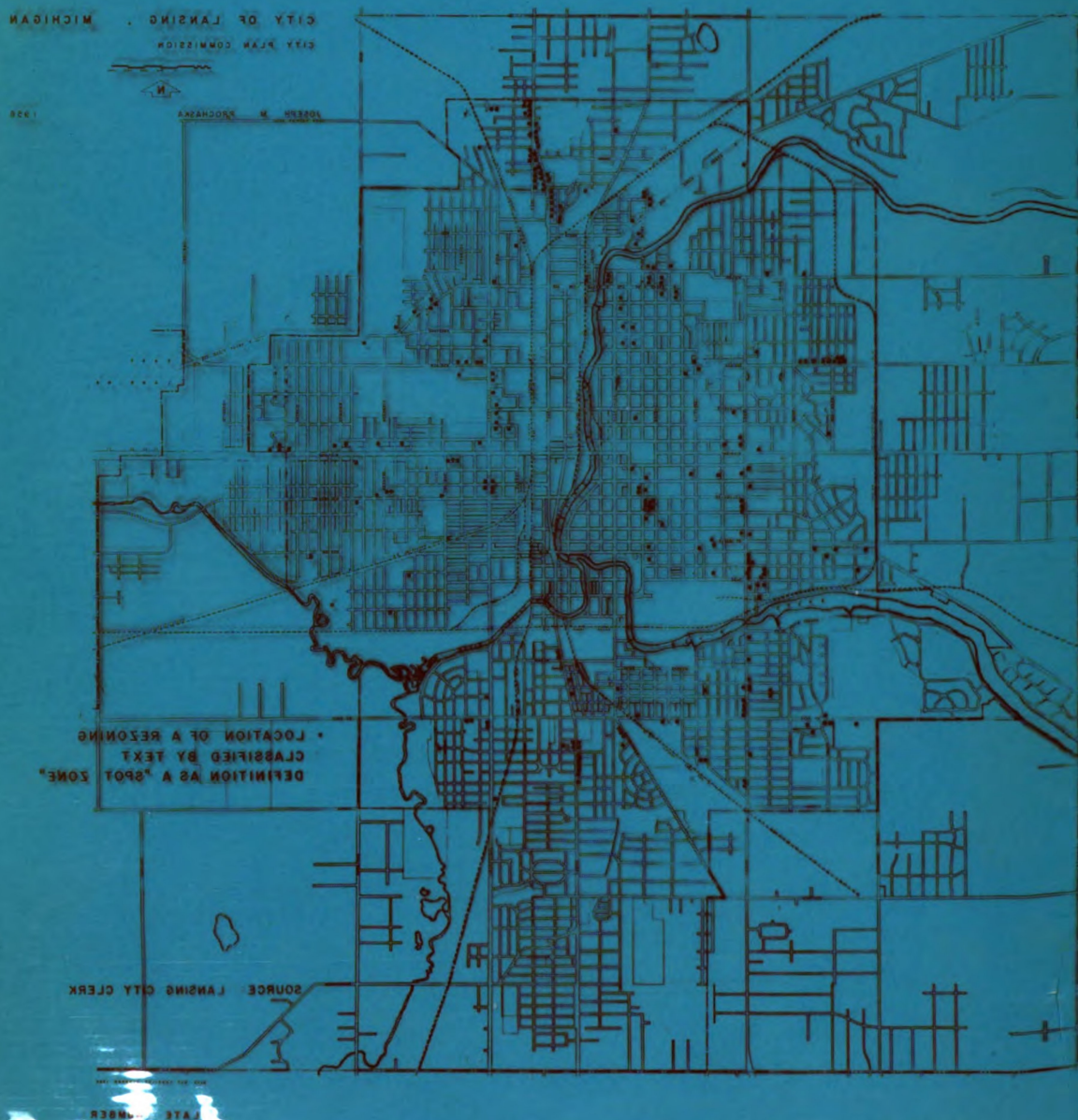


# SPOT ZONINGS: 1942-1957



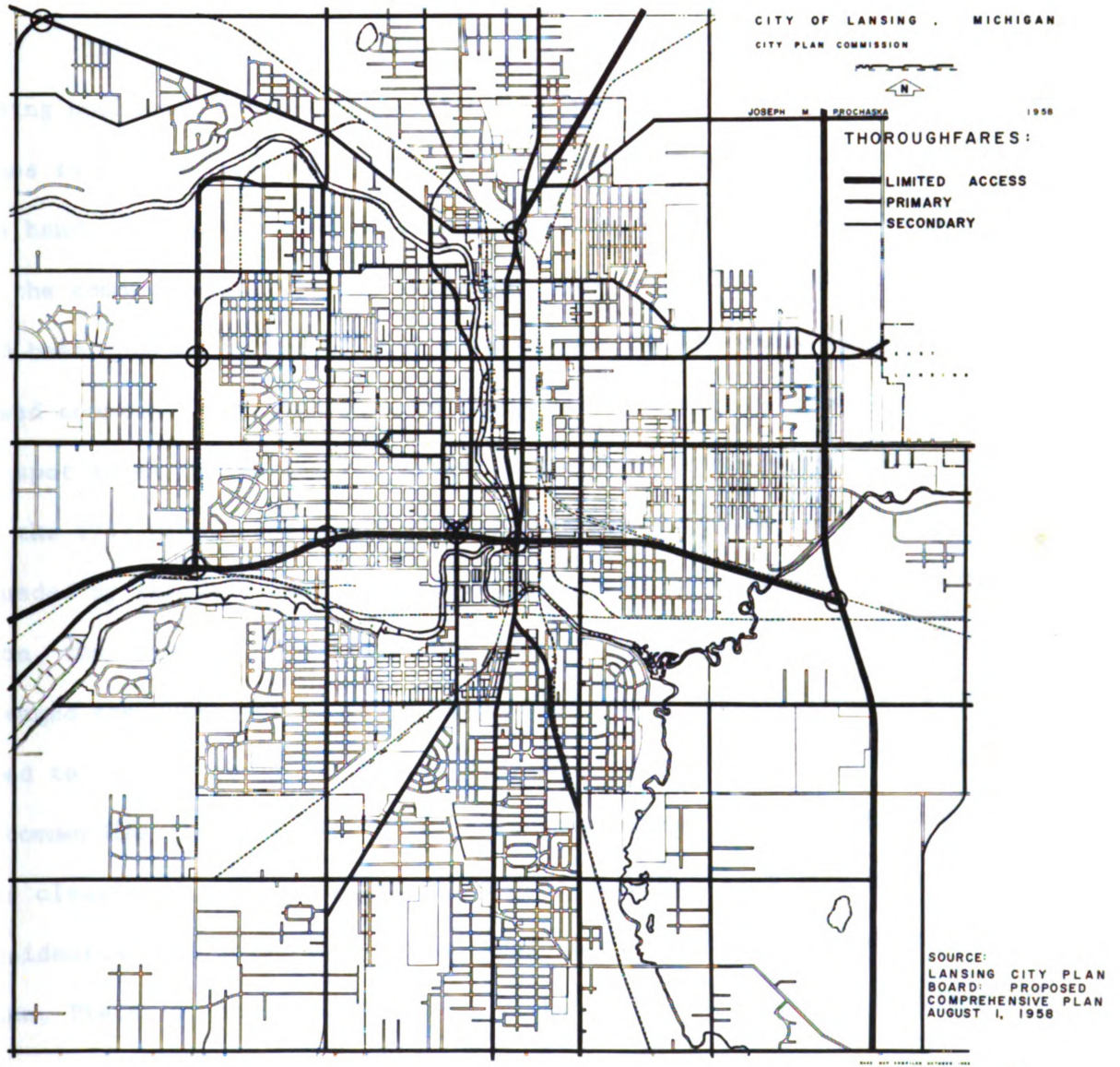


# SPOT ZONING: 1943-1951





# THOROUGHFARE PLAN: 1958



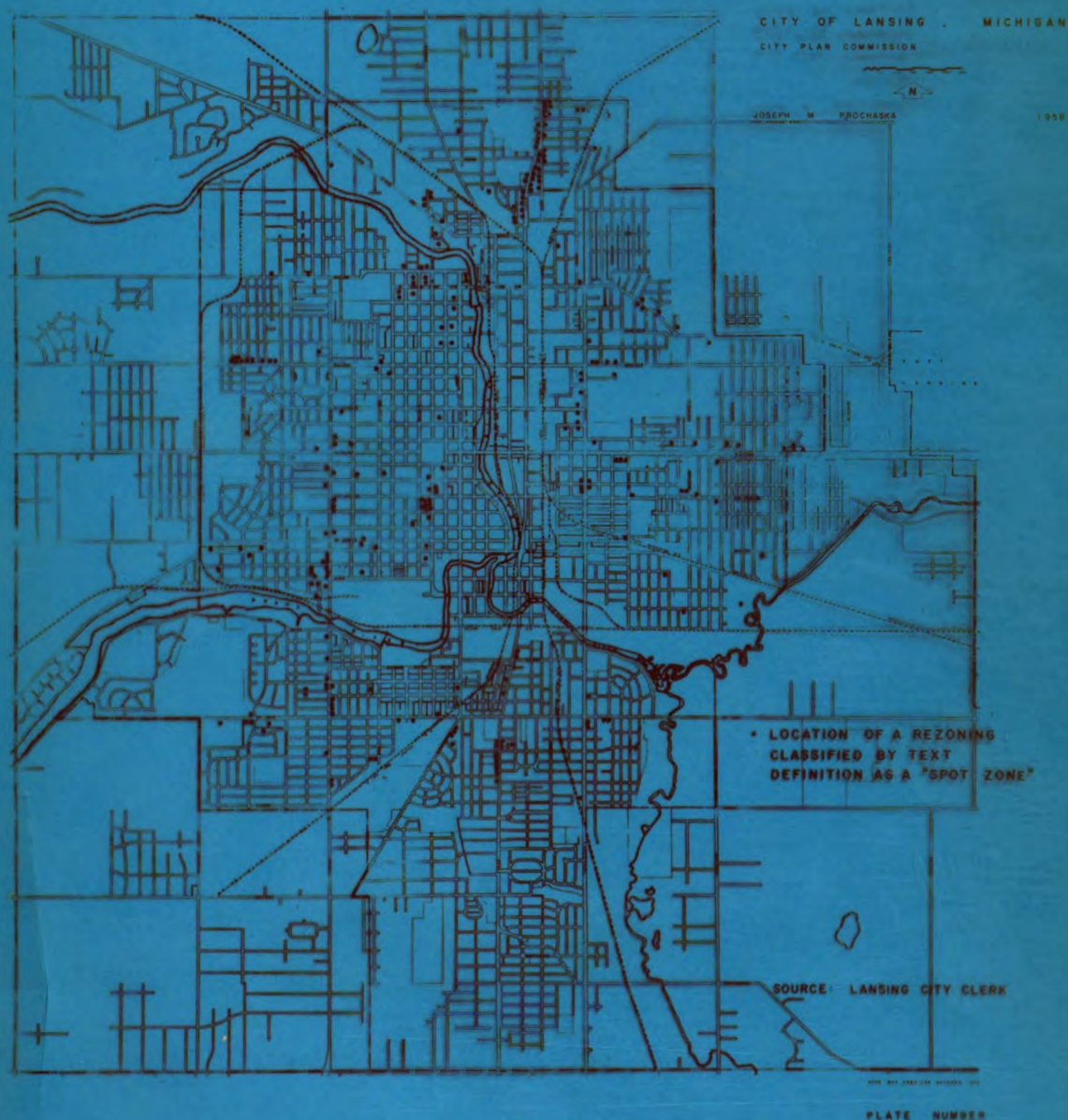
prompted the original land use-thoroughfare relationships in the Official City Plan had not been altered. It was reasonable, therefore, to assume that the construction or relocation of thoroughfares in accord with the Official City Plan should not have given rise to re-zonings not in accord with the plan.

The relationship of the two city plans to the practice of spot zoning could not similarly be defined. Comparison of the incidence of spot zones to each of the two plans presented two unrelated situations. On the one hand, the creation of many spot zones in an area resulted in a change in the comprehensive plan to encompass those districts whose characters had been changed by the illegal re-zonings. On the other hand, the proposed comprehensive plan gave no recognition to several areas pock-marked by spot zones by leaving the areas in the same land use classification as in the 1942 plan. The irony of this paradoxical inconsistency was compounded by the fact that in most of the areas, in this latter classification, the City Plan Commission had sanctioned the re-zonings which had changed the character of the neighborhoods. No explanations were uncovered to justify the logic employed by the commission in consistently recommending the re-zoning of parcels in an area, which by the 1942 plan was classified as residential and by the proposed 1958 plan was to remain residential. A comparison of the incidence of spot zones and the 1942 plan, Plate 14, and the 1958 plan, Plate 15, clearly indicates those areas wherein this situation has occurred.

Detailed examination of specific areas of the city was employed to ascertain the degree to which spot zoning affected city planning. Plate 16 indicates those areas selected.



# SPOT ZONINGS: 1942-1957





SPOT ZONING: 1942-1947

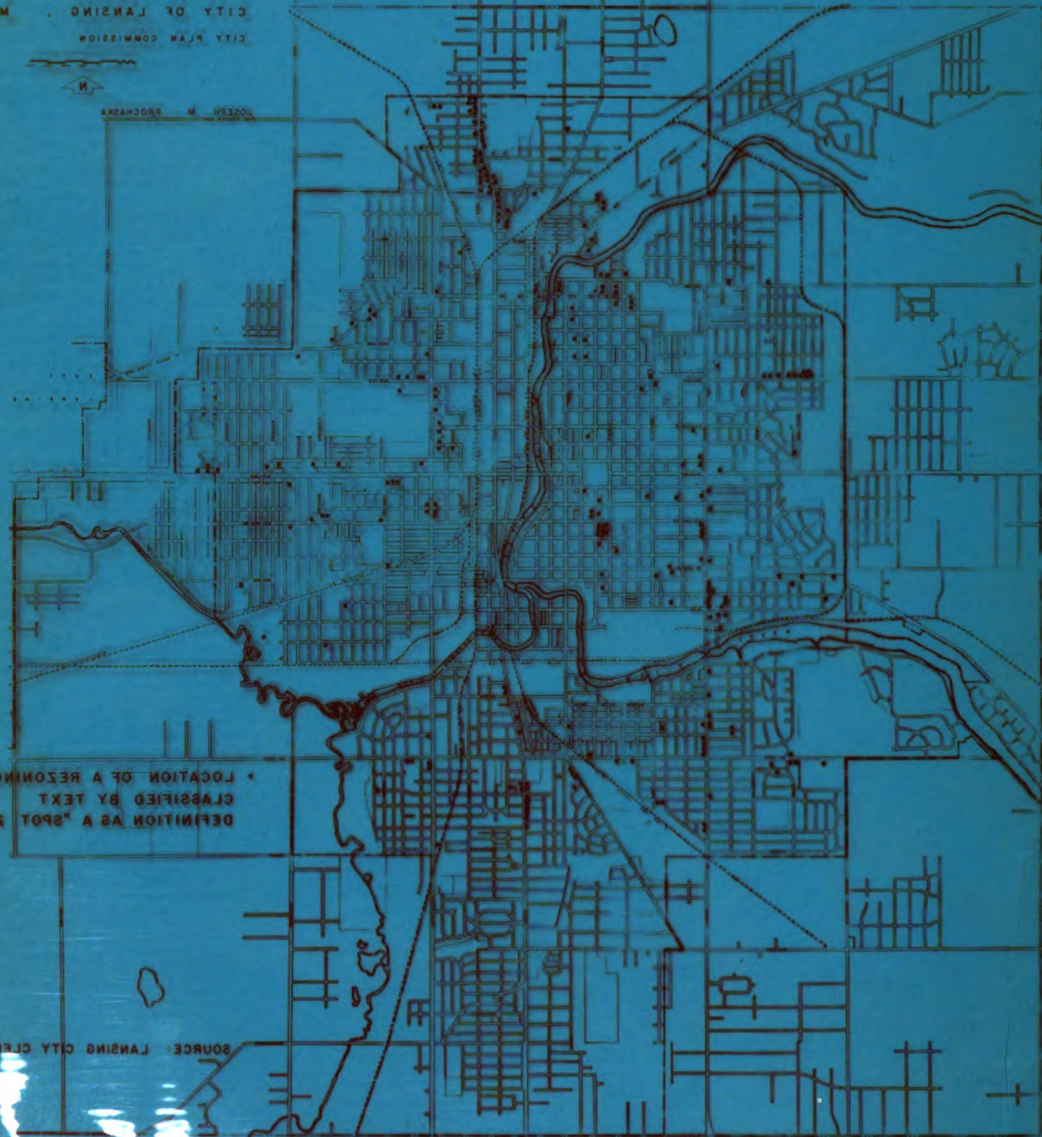
CITY OF LANSING, MICHIGAN  
CITY PLAN COMMISSION

1947

LOCATION OF A REZONING  
CLASSIFIED BY TEXT  
DEFINITION AS A "SPOT ZONE"

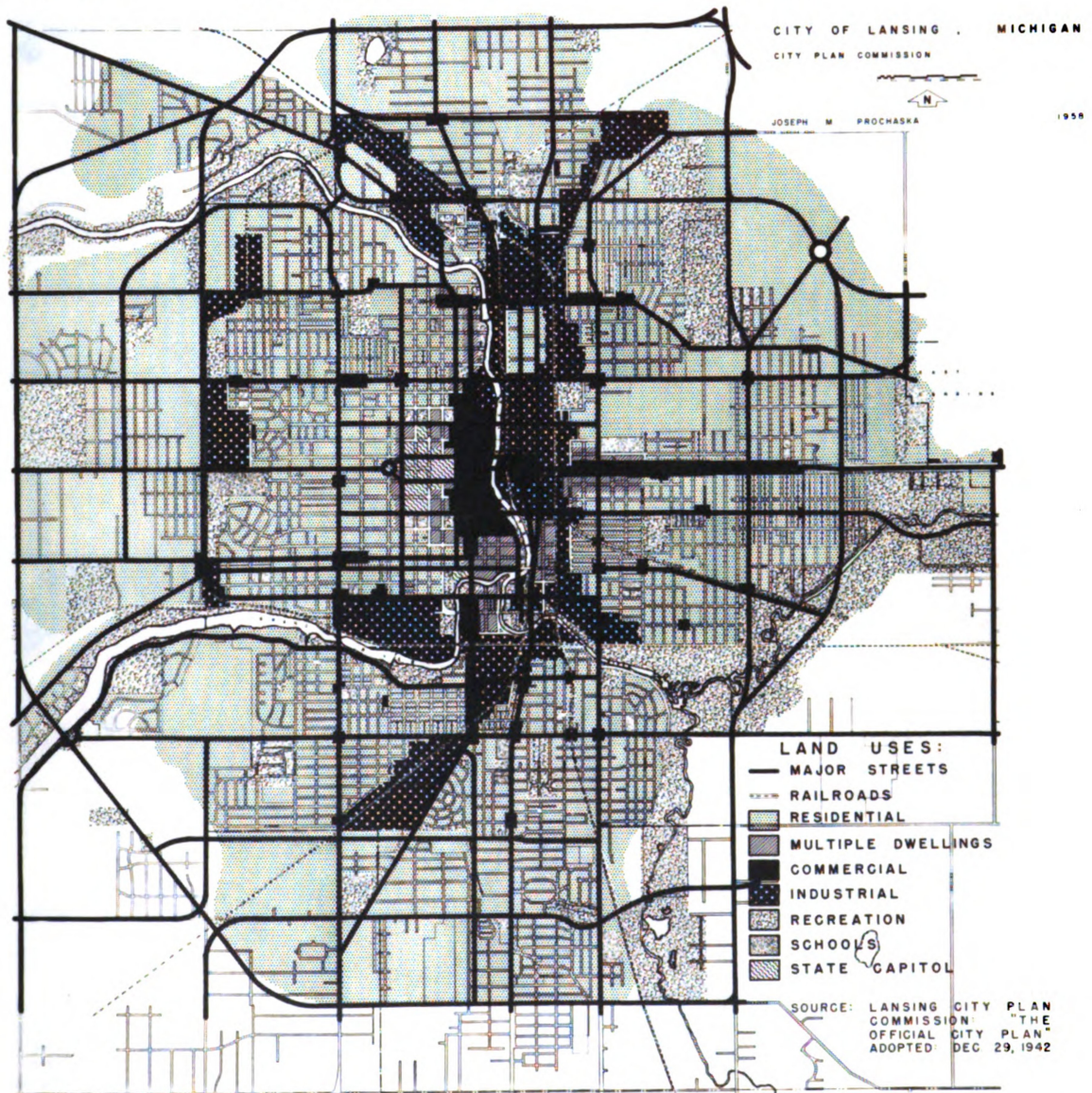
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PLATE NUMBER



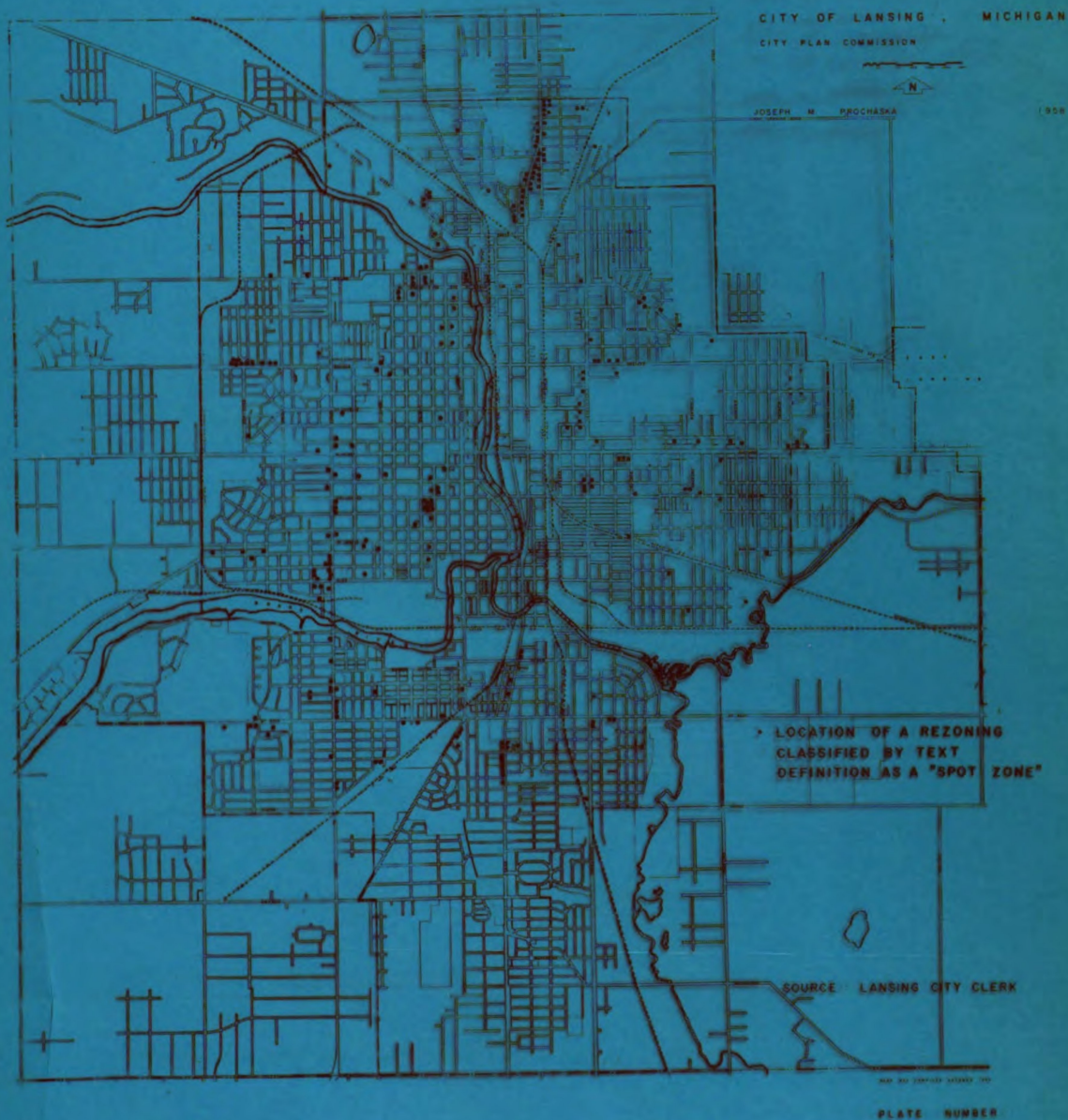


# 1942 MASTER PLAN





# SPOT ZONINGS: 1942-1957





# SPOT ZONING: 1942-1951

CITY OF LANSING, MICHIGAN  
CITY PLAN COMMISSION

1951

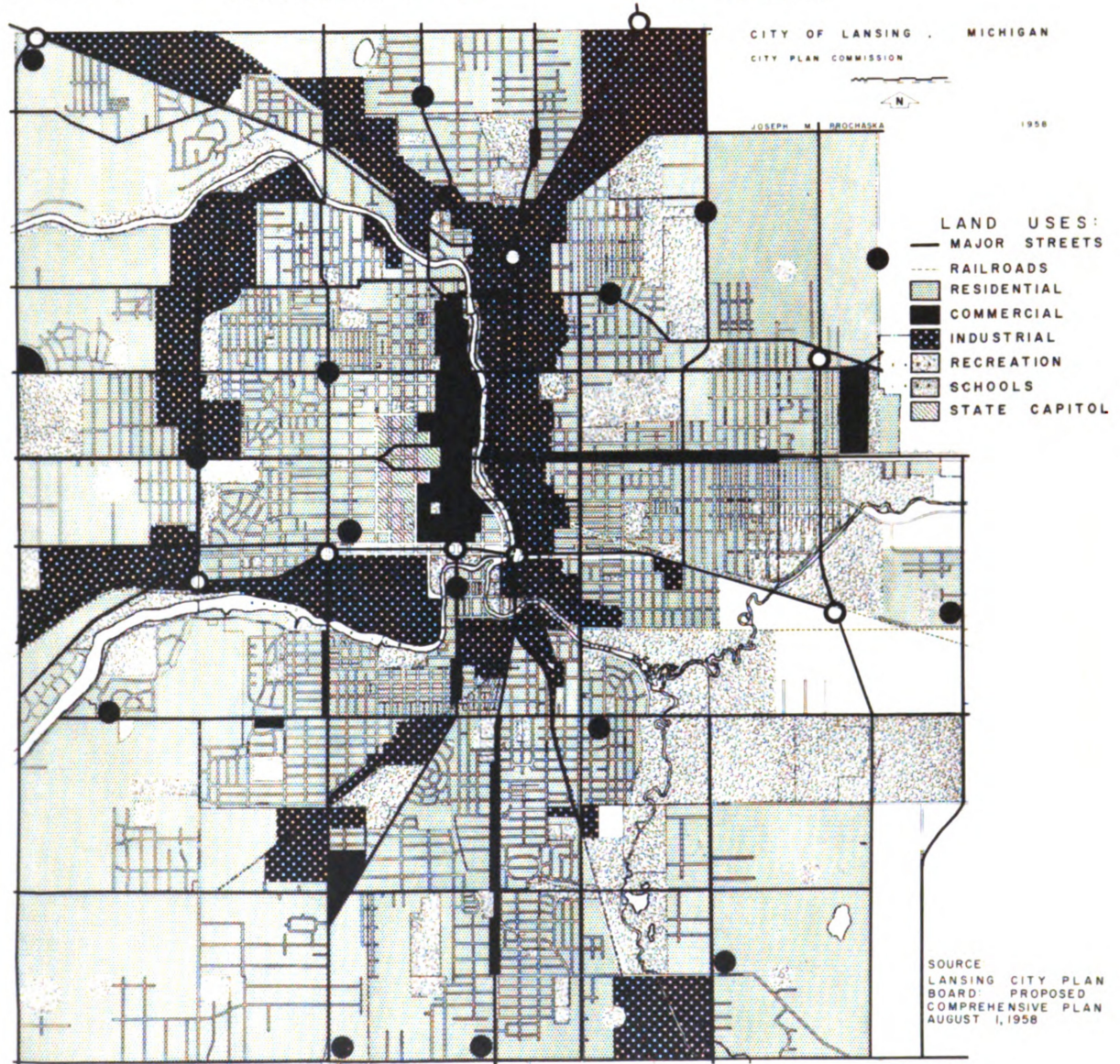
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CLASSIFIED BY TEXT  
DEFINITION AS A "SPOT ZONE"

SOURCE: LANSING CITY CLERK

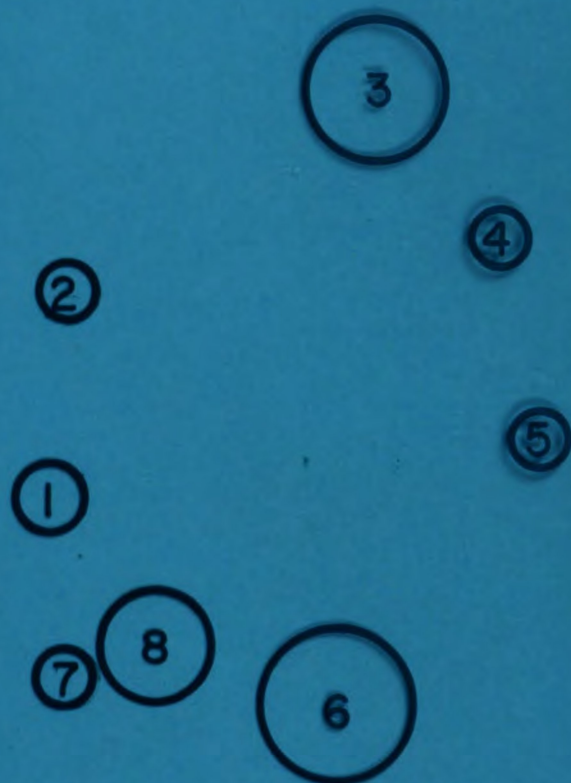




# 1958 MASTER PLAN



## DETAILED STUDY AREAS

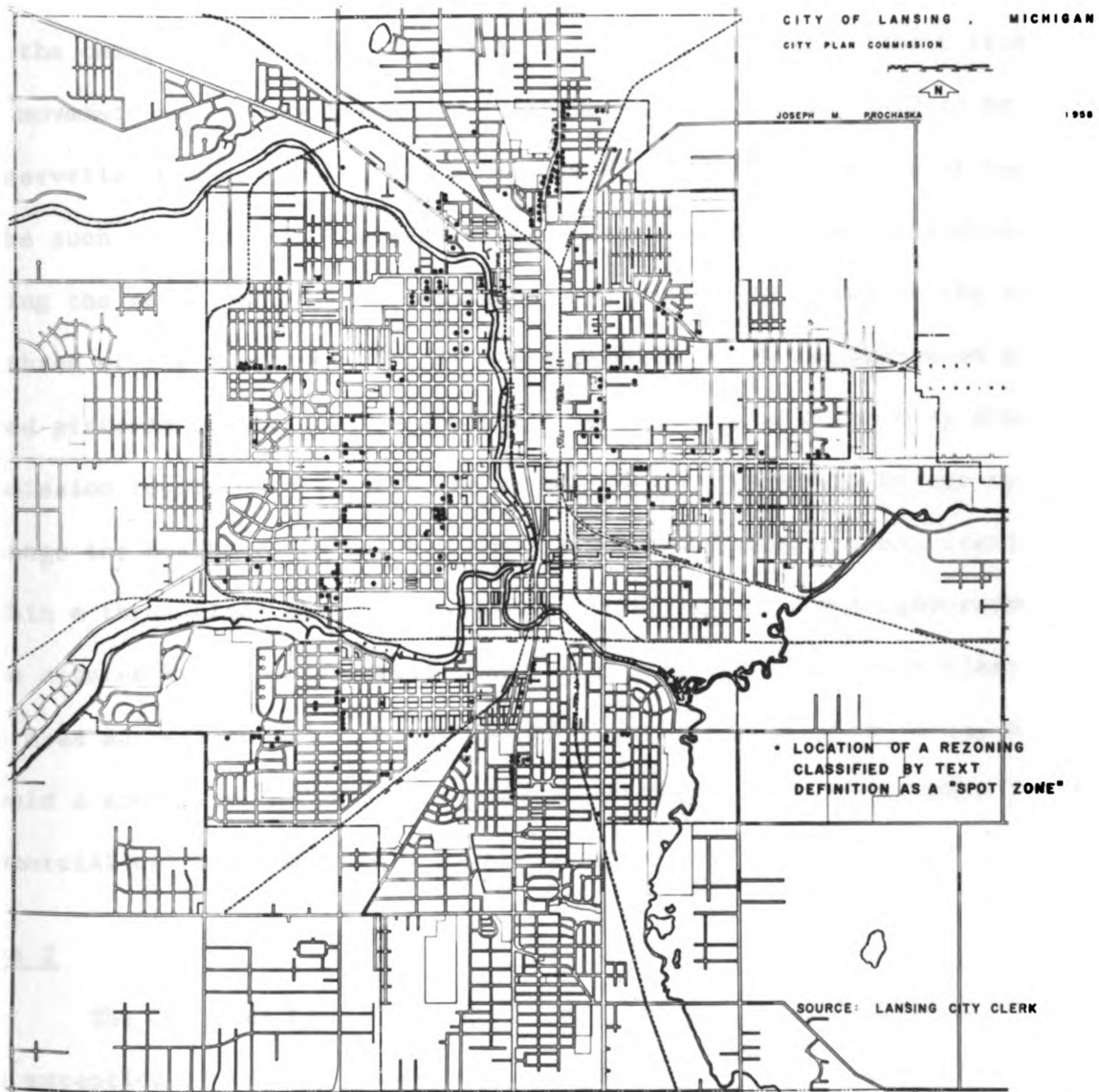




# DETAILED STUDY AREAS



## SPOT ZONINGS: 1942-1957





Area 1

The Official City Plan adopted in 1942 classified this area as residential. The neighborhood was almost exclusively residential. One non-conforming use, a drug store was the sole non-residential structure within the area. The single change in the vehicular circulation system was the changeover of West St. Joseph Street and West Main Street from two-way movement to one-way movement. Housing quality was adjudged to be of a conservation nature in 1956 and a field check indicated the age of housing to be such that in 1942 the area could have been classified as stable. During the study period, four separate spot zonings occurred in the area. In three of the four spot zonings the residents of the neighborhood registered protests against the re-zonings. On two occasions the City Plan Commission recommended against the re-zonings. As a result of the spot zonings the neighborhood now has four commercial establishments scattered within a three block area. Although the character of the neighborhood has been altered by these commercial land uses, the 1958 plan still classifies the area as residential. Should the 1958 plan be adopted as it is, and should a zoning ordinance be designed to implement this plan, these four commercial establishments will become non-conforming uses.

Area 2

The Official City Plan classified this area as residential. With the exception of two minor non-conforming uses, the neighborhood was totally residential and was classified in 1956 as being of a stable nature. During the study period ten amendments to the zoning map were passed by the City Council changing all the property fronting on West Saginaw Street from residential to some form of commercial use. Although the character

of a segment of this neighborhood has been changed drastically, the proposed 1958 comprehensive plan still classifies the area as totally residential. In this area, as in Area 1, non-conforming uses will be created with the adoption of a zoning ordinance based on the comprehensive plan.

### Area 3

The Official City Plan classified this area as residential, school property, and commercial. Of the three categories, residential represented the bulk of the area. The commercial area consisted of the end lots of one block fronting on North East Street. The plan also included a proposal for the relocation of U. S. 27, North Larch Street. This relocation was accomplished according to plan during the study period. Between 1942 and 1957 thirty-six spot zonings occurred along North East North Larch Streets. Twenty-seven of these re-zonings were to some form of commercial classification, five to an industrial classification and four to a multiple residential classification. In 1956 the housing quality of the neighborhood was adjudged to be in the conservation category. The 1958 proposed plan has multiplied the commercial area of this neighborhood five-fold, however, the area in which the bulk of the re-zonings took place is still classified as residential. A total of twenty-eight spot zonings occurred in that segment of this neighborhood proposed for a residential classification. In addition, the one area classified as commercial in the 1942 plan has been reclassified as residential in the proposed plan.

### Area 4

The Official City Plan classified this area as almost totally residential. Two small lots were designated as commercial. One non-conforming use was in existence in 1942. In 1956 the housing quality of

the neighborhood was noted to be of a conservation nature. No changes occurred in the circulation system and none were contemplated. During the study period five parcels were spot zoned to either a commercial or an industrial classification. Three of these changes occurred between 1942 and 1945, less than three years after the adoption of the plan. The 1958 plan has tentatively classified the entire area as residential. No recognition was given in the proposed plan to those land uses which were sanctioned by the re-zonings and are not residential.

#### Area 5

The Official City Plan classified the entire area as residential with the exception of five parcels at the intersection of Shepard and East Kalamazoo Streets. These five parcels, occupying three corners of the intersection, were designated as a "neighborhood type" of shopping center. All land uses in the area were in accord with the 1942 plan and conformed to the zoning ordinance. During the study period four re-zonings occurred in the area. Three of these served to expand one segment of the "neighborhood type" of shopping center northward into the residential zone. A total of four residential lots were spot zoned to provide parking for the shopping center and later spot zoned again to provide for an expansion of the structures on the property. At present, this center includes a drug store, a drive-in dairy bar, a drive-in dry cleaning pick-up station, a hardware store, a plumbing shop, a glass distributing firm, second floor offices, and a machine shop operated by the owner of the hardware store. The machine shop is immediately adjacent to homes on the north side of the property. The proposed 1958 plan tentatively includes those areas which were added to the original shopping center by the three spot zonings.

### Area 6

In 1942 most of this 23 block long strip along South Cedar Street was vacant. The Official City Plan classified the area as principally residential with but one intersection planned for a commercial district. Seven non-conforming uses were scattered along the length of the strip. Most of the housing on either side of South Cedar was constructed after 1942. During the study period changes in the circulation system involving South Cedar Street were made according to the Official City Plan. In that time, however, sixteen parcels were spot zoned to some type of commercial classification. The proposed 1958 plan has encompassed most of the spot zonings in a twenty-one block long commercial district.

### Area 7

The land within this area was completely vacant in 1942. The Official City Plan classified the district as residential. No non-conforming uses were in existence at the time of adoption of the plan. During the study period six spot zonings were passed by the City Council. One such change aroused the protests of 28 residents of the adjacent neighborhood. The 1958 proposed plan has classified the bulk of this property as residential.

### Area 8

Two intersections of this strip were classified as commercial districts in the 1942 plan. The balance of the area was planned for residential use. Only one non-conforming use was present at the time of adoption of the city plan. During the study period, no major changes occurred in the circulation system within the area, however, the City Council passed a total of fourteen spot zonings along South Logan Street.

Thirteen of these were former residential properties re-zoned to commercial. In 1956 the housing quality within the area was adjudged to range between stable and conservation. The 1958 plan has encompassed the bulk of these spot zonings into a nine block long strip commercial district.

#### Summary

Spot zoning in Lansing has produced two effects on the Master Plan. The first, and most logical, was that where the practice of spot zoning within an area had so changed the character and quality of the area that the use originally planned for the neighborhood was no longer desirable the comprehensive plan was revised to accommodate the use dictated by the spot zonings. In this instance, zoning had preceded planning. The second effect was that of the creation of an undesirable heterogeneity of land uses within a neighborhood without having given recognition to the changed character of the area in the revision of the city plan.

In Areas 3, 4, 5, 7, and 8 zoning preceded planning. Since planning is properly a continuum, it would be more accurate to say that in these five areas zoning superseded planning. The use of land was dictated by the day to day decisions of a few individuals, often selfishly motivated, who considered the issues of the moment and only the specific properties involved. Reasoning based on sound planning principles with consideration for the interests of the entire community was not used. The planned relationship of these areas to the city was altered and in this respect, the entire plan was altered. Any plans, either private or public, which were based on the fulfillment of the Official City Plan faced reappraisal. The individual and community investments in property made on the strength of this belief were weakened.

In Areas 1, 2 and 6 monopolistic islands of non-conforming uses were created. The advantages of a homogenous grouping of land uses were discarded in favor of immediate benefits to the select few whose properties had been spot zoned. Again, the interests of the entire community were by-passed. The burden of future blight arising as a direct consequence of the legally sanctioned mixture of incompatible land uses was brushed aside in favor of selfish expediency.

### CHAPTER III

#### CONCLUSIONS AND RECOMMENDATIONS

The effects of spot zoning on the Master Plan in Lansing are already in evidence. Plans for a significant portion of the city have been revised to accommodate the change in neighborhood character brought about by large numbers of spot zonings. Out of 232 spot zonings during the study period, 194 involved the rezoning of a residential use to a commercial use. The balance of the spot zonings involved rezoning to either a higher density residential or an industrial classification. In each residential area where spot zonings have prompted a revision in the city plan, property owners will find it increasingly difficult to justify the maintenance of homes in the face of a mounting mixture of blight-inducing land uses. It matters not that these homes were built in accord with a comprehensive plan. The incentive to retain a residential character in a neighborhood through the conservation of structures and properties will be reduced with the inevitable introduction of each new non-residential land use. It is reasonable to assume that public improvements made in these areas during the life of the original plan were based on the plan rather than on the indeterminate actions of the City Council in their amendments to the zoning ordinance. These improvements would, therefore, have to be adjusted to suit the different land uses introduced through the acts of spot zoning. Utility services would be altered. Schools, without a reasonable service area, will either close, operate in an inefficient manner, or be converted to



another use. Examples of this latter point have already occurred with the Lincoln and Christianity Elementary Schools. With traffic patterns readjusted by the new location of commercial, industrial and office-type land uses, streets, obviously will have to be widened. What formerly was adequate for the traffic of a residential area will become inadequate for the new commercial area. Parking facilities for the new land uses will have to be provided since the parking requirements of the various land uses differ. In those instances wherein the rights-of-way were specifically established for a residential development, the change-over to another land use with greater traffic potential will require street widenings which could conceivably push curbs against sidewalks with the resultant decrease in safety, appearance and utility. Conversions of residential structures to non-residential uses will result in a higher cost of business operation through the inefficient use of space. Eventually, as residential values slide downward as a result of an increasing infiltration of blight-inducing land uses, complete renewal will provide the only answer toward the achievement of a sound community.

In those segments of the city where spot zonings have not been recognized in the revised comprehensive plan the problems will be much the same. Each spot zone will create an obstacle in the path of the neighborhood struggling to retain its residential character. In areas where spot zoning has been frequently used, these obstacles will, in all probability, be insurmountable. The greater the obstacle, the less will be the interest of the individual property owner in maintaining his home, and rightly so. As an area is transformed from residential to commercial or industrial, little justification can be found to attempt to preserve the character of the former. In time, all that was residential in

character and quality will either be non-residential or residential in name only.

Zoning, one of the planner's chief tools for implementing the master plan, has not performed its function in the City of Lansing. The authority vested in the City of Lansing by the State of Michigan through the Zoning Enabling Act was of sufficient scope to permit implementation of the comprehensive plan. The fault was not in the construction of the law, but in its administration. The City Council did not properly exercise the power of the Zoning Ordinance as a means to forward the Master Plan. Instead, it disregarded the plan in 232 cases in favor of an issue of the moment. The City Plan Commission in its advisory capacity failed to meet its obligation in the same fashion for the same reason. The apathy and ignorance of the public fostered the illegal practice of spot zoning by not exercising the legal rights and remedies provided in law.

It would seem then, that the lack of a knowledge of the proper function of planning and zoning within a community on the part of the City Council, the City Plan Commission and the public in general has created this environment wherein spot zoning can exist as a matter of course. If this be the case, and all evidence indicates it is, then the solution would, obviously, be in the education of those concerned on the matters of planning, zoning, and whatever constitutes a "sound community environment". The apparent possessor of the necessary knowledge is the technical staff of the City Plan Commission. By virtue of training and experience the technical staff is presumed to have such knowledge which when properly disseminated would enable the City Council, the City Plan Commission and the public to recognize the evils inherent

in the practice of spot zoning. Such an educational program, if the proper dissemination of knowledge could be termed a "program", would provide the proper set of checks and balances to counter hasty legislative acts which were in opposition to the comprehensive plan. Even of greater significance than the creation of a repugnance to anti-planning actions would be the creation of a pro-planning thought in the collective mind of the community which would make the task of planning a much simpler one.

Generally, such an educational program could have its start in the advertisement of the function of planning in Lansing through both the local newspaper and publications of the City Plan Commission. Observation indicates the local newspaper has been active in this respect; however, the City Plan Commission's publications have been limited in numbers and distribution. Such publications could be distributed in the various schools, thereby initiating a long range program education. Other literature could be offered at public meeting and hearings.

Specifically, a planning educational program could be established and conducted by the technical staff and its Director in the various official meetings attended or called by the Director. In this respect, each meeting of the City Plan Commission would be, in part, a class in city planning. Since these are public meetings, such an educational attempt would be aimed toward not only the City Plan Commission members, but also the public. A concerted effort could also be made to increase public attendance at these meetings. Other public hearing on matters pertaining to any aspect of planning or zoning could also provide a vehicle for such an effort.

To further enable the City Plan Commission to carry planning education to the public, it would be advisable to revise the present zoning ordinance. Under this ordinance the City Plan Commission is required to submit to the City Council its recommendations relative to petitions for re-zonings. Although each meeting of the City Plan Commission is open to public, it would be advisable to consider those sessions involved with the discussion of a proposed amendment as a public hearing with the concomitant public notice and notification, thereby granting those individuals with an interest in the matter an opportunity to express their opinions. In addition, it would seem that in those cases wherein the City Council chose to over-ride the recommendations of the City Plan Commission, the ordinance could be revised to require that the proposal be returned to the City Plan Commission for reconsideration and an additional public hearing. Such a procedure, although obviously more costly than the present one, would delay, and possibly rule out, hasty actions by the City Council and the City Plan Commission which have resulted in spot zonings in the past. Such an action would serve to re-test public opinion and would also permit the Commission and Director to again conduct a class in city planning.

With such an educational program it is likely the competent technical planning staff could develop within the public and its elected and appointed officials a knowledge and a conscience which would permit planning to create a desirable community with less effort than it now must exercise.



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