

# THE MASTER PLAN: AN IMPERMANENT CONSTITUTION\*

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General ideas are no proof of the strength, but rather of the insufficiency of the human intellect; for there are in nature no beings exactly alike, no things precisely identical, no rules indiscriminately and alike applicable to several objects at once. The chief merit of general ideas is that they enable the human mind to pass a rapid judgment on a great many objects at once; but, on the other hand, the notions they convey are never other than incomplete, and they always cause the mind to lose as much in accuracy as it gains in comprehensiveness.

II ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 13 (Bradley ed. 1946).

. . . The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

U. S. DEP'T OF COMMERCE, *A STANDARD CITY PLANNING ENABLING ACT* §7 (1928).

City planning in this country has witnessed a combination of professions and talents rare in any reform movement. From the outset sound legislation was recognized as essential for the development programs of the "new city." Great impetus was lent to erecting a legal framework for land planning by the United States Department of Commerce, which, through its Advisory Committees, promulgated and popularized standard enabling legislation for city planning and zoning.<sup>1</sup> Consequently, the theory of city planning<sup>2</sup> has had a decisive imprint in at least one area—state enabling legislation permitting municipalities to plan for and control the uses of land within their corporate areas.

Today enabling legislation for urban planning exists in all states but three.<sup>3</sup>

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<sup>1</sup> U. S. DEPARTMENT OF COMMERCE, *A STANDARD CITY ZONING ENABLING ACT* (rev. ed. 1926) [hereinafter cited as *STANDARD ZONING ACT*]; U. S. DEPARTMENT OF COMMERCE, *A STANDARD CITY PLANNING ENABLING ACT* (rev. ed. 1928) [hereinafter cited as *STANDARD PLANNING ACT*]. Cf. NATIONAL MUNICIPAL LEAGUE, *MODEL CITY CHARTER* (5th ed. 1941) (first planning provision, 1925).

<sup>2</sup> Since the planning movement is most developed on the municipal level, the phrase city planning is used throughout to indicate over-all physical planning. No functional distinction is intended to be made between the city and other governmental units or regions as respects the need for master planning.

<sup>3</sup> Florida, Mississippi, and Wyoming. There are others which are only thin sketches. For a digest of planning enabling legislation see HOUSING AND HOME FINANCE AGENCY, *COMPARATIVE DIGEST OF THE PRINCIPAL PROVISIONS OF STATE PLANNING LAWS RELATING TO HOUSING, SLUM CLEARANCE AND URBAN REDEVELOPMENT* (1952).

Within this legal matrix the master plan<sup>4</sup> concept is an established element. Since it has arrived at such status, one may assume that it is legislative policy to encourage, or enjoin, recognition of the master plan's significance in the process leading from planning to reality. But, as is the case with most statutes (plus the need for allowing wide discretion and experimentation in so novel a proposal as city planning), planning enabling laws are cast in broad, amorphous terms. Hence, the enabling acts indicate a general area of purpose which forms the basis for more detailed elaboration, initially by local legislatures and administrators, and finally by courts. To perform this task of elaboration it is necessary to grasp the motivations and uses of city planning. Accordingly, this paper is directed towards an examination of the function and nature of the master plan in order to appraise the appropriateness of the legal accommodation it has received.

## I

### THE CONCEPT OF THE MASTER PLAN

What is the master plan? This is one of those ultimates which any serious profession—especially in periods of crises—will ponder long and hard. It is racking the professional city planners. As such, it may be a valuable exercise for pedagogic purposes. Occasionally, a discussion framed in such terms may even lead to pertinent observations on the planning process. And it may contribute that advantage of defining any general term—a convenient short-hand to facilitate communication.

Under the strong conviction, however, that "master plan" has a variety of meanings, dependent both upon the context in which it is employed, and the purposes for which it is invoked, this paper attempts to view the problem solely as one of the uses of a plan. What precisely is the legislature shooting for by prescribing the writing of a plan? What are the "strategic points of decision making" sought to be influenced by the plan? Master plan may mean one thing when used to advise on the timing of construction of New York City schools, and quite another in the allocation of lands for recreational uses in a rural setting. Again, when utilized by

<sup>4</sup>This is the term most frequently employed. "Comprehensive plan," "general plan," "municipal plan," "city plan," "long range plan," or just plain "plan" are also used. But the differing nomenclature appears to have no functional significance. According to Bassett, the term master plan was first used in a report, *RECENT NEW YORK LEGISLATION FOR THE PLANNING OF UNBUILT AREAS, REGIONAL PLAN OF NEW YORK AND ENVIRONS* (1926). Its incorporation in the highly influential Standard Planning Act accounts for its presence in most enabling statutes. Heeding the message of Stuart Chase, planners have hotly decried the misdescriptive character of the term master plan; e.g., Stanberry, *Is the Term Master Plan Obsolete?*, American Society of Planning Officials News Letter, June 15, 1949, p. 49, and following discussions elicited in *id.*, Aug. 15, 1949, p. 66, and Oct. 15, 1949, p. 84; Urban Land, Feb. 6, 1947, p. 1; N.Y.-PHILA. CHAPTER, AMERICAN INSTITUTE OF PLANNERS, EXCERPTS FROM PAKNIKAR THESIS 3 and *passim* (1954) (mimeographed). Essentially the objections have been that the term connotes (1) a single perfectly interrelated plan while in fact it is a series of plans, (2) a rigid design or blueprint rather than a flexible working guide, (3) "slavery and comprehensive authority," (4) a concern with purely physical arrangements and facilities thus leading planners to minimize basic social and economic purposes. "Development plan" (the term used in the British Town and Country Planning Act, 1947, 10 & 11 GEO. 6, c. 51) or "long range comprehensive plan" or "general community plan," the term used by the Housing and Home Finance Agency, are more favored terms. While it is easy enough to recognize a term of art, the relatively uncharted position of the planner may well justify this desire for a more accurate terminology.

a federal agency for ensuring that a locality is beginning a serious and coordinated attack on slums so that the granting of federal funds is warranted, its contents and scope must differ from the case of a court scrutinizing a zoning ordinance under attack as not consonant with the master plan. And, of course, whether viewed historically over time within one nation, or across-the-board between a country dominated by the institution of private property and one where nationalization of development rights—or of land itself—has become the accepted way of dealing with land-use problems, the master plan concept cannot be said to have a universal meaning. Nor is there any one way of formulating or administering it.

This is not to deny the necessity of paying close attention to the master plan concept in and of itself. Even though there are disagreements at the periphery, there is a core meaning that is fairly well agreed upon. Moreover, the empiric situation remains: the concept is constantly used. If its employment were confined to the planning profession alone, there would be small incentive to join in the fray, painful and so often fruitless are the awards of dictionary definition disputes. But the inescapable dilemma persists: the word “master plan” is used in enabling legislation, local ordinances, and judicial decisions. In the field of law this rather ethereal concept may have major practical importance: not only may the individual client’s rights in his property be drastically affected; but—as is often the guise such issues take—constitutional questions dealing with fundamental relations between the state and the individual are at stake. Accordingly, with this switch in interest from the master plan as a technical exercise, the point of inquiry resolves itself into: what are the possible contributions of the master plan in formulating decisions concerning land use; what control should the plan exercise over the implementary regulations; to achieve this desired degree of relation between theory and practice, what criteria should be enumerated for the use of administrators, reviewing courts, and private developers?

With this orientation, the initial question is rephrased, so that it becomes: what, as envisioned by the enabling laws, are the uses of the master plan? Unfortunately the functions of the master plan are often beclouded in the enabling acts. There is also diversity of purpose in the acts of the different states. Still worse, there is often inconsistency of purpose even within the same statute. For these reasons, even a limited attempt at classification and precipitating out the various functions served by the master plan may be useful for purposes of clarification. While there is overlapping, it is believed each category underscores a sufficiently distinct consideration.

An approach to the master plan from the lawyer’s perspective is necessarily dominated by the question of impact—what part does the plan play in men’s affairs? An analysis of the planning enabling laws discloses a dichotomy in the ends sought to be achieved through a master plan: one part is largely didactic and deals with the virtues of planning; another—and quite distinct—portion moves away from speculation and is concerned with directing the application of human energies in land development. Recognition of this split may lead to understanding the difficul-

ties of making any practical application of the pure theory of the master plan. Again, it may help reshape the enabling acts to emphasize the processes by which the master plan manages to get itself realized.

The larger share of the typical enabling act concerns itself with the making of plans. The uses to society of this mechanism are envisioned as six broad types: (1) a source of information; (2) a program for correction; (3) an estimate of the future; (4) an indicator of goals; (5) a technique for coordination; and (6) a device for stimulating public interest and responsibility.

With respect to these values, the planning enabling laws are largely in the nature of an exhortation to the planners concerning theories and techniques of planning. As presently drafted, this part of the planning enabling acts constitutes a rudimentary text for the construction of a plan. It does limit the ethical and moral base of planning so as to make it an acceptable part of community institutions. To the professional planners, this part of the legislation may be of large significance; the proper contents and scope of the plan may cause much soul-searching and debate. It may also, in addition to setting up an internal ideal, serve the very practical purpose of strengthening the planning commission within the whole range of activities of local agencies competing for appropriations from the local budget. But so far as the other agencies of local government, the citizen of the city, the property owner and his lawyer, and the reviewing state courts are concerned, it is couched as a private dialogue between the state legislature and the local planning commissions.

A second set of functions allotted to the plan by most of the planning enabling laws deals with the plan's effects upon local legislative controls of land-use. It is this second broad group of uses of the plan which concerns the interest groups affected by planning. These uses seem to divide into five broad types: (1) a prophesy of public reaction; (2) a tool for the planning commission in making reports; (3) a guide to effectuating procedures and measures; (4) an ordinance regulating the use of land; and (5) a guard against the arbitrary.

This second major portion of the enabling act deals with the effectuation of the master plan: it concentrates on the impact, potential and actual, of the plan on the growth and decay of a city as these processes take shape—how the physical environment is modified by law. Only to the extent that the uses of the first type are incorporated into those of the second type, or influence the actual shape of their enactment, are they of any consequence in land-use activities. Only to this extent are planning theories and techniques given a role in the structure of local government.

## II

### WHAT THE MASTER PLAN MEANS TO THE PLANNER

The following are conceived to be the uses of the master plan relating primarily to the formulation of plans.

#### 1. A Source of Information

The acknowledged initial step of the master plan procedure is what the British

Town and Country Planning Act designates as the "survey."<sup>5</sup> It furnishes a picture of the present state of conditions in the city. Most state statutes direct the planning commission, in the preparation of the plan, "to make careful and comprehensive surveys and studies of present conditions and probable future growth" of the community.<sup>6</sup> These include, we are advised by professional planners—although they are rarely specified in the enabling acts—studies of economic activity, population composition and growth, land uses, channels of movement, systems of public facilities, and physical resources and liabilities.<sup>7</sup>

Gathering and analysis of information is essential; it is the explanation and the buttress of the various conclusions embodied in the master plan. Further, the inventory process has value in itself. For even if the plan becomes a dust gatherer after it is set on its way,<sup>8</sup> this information can prove of use in injecting some light into the operations of such haphazard physical developments as do occur in the future. Thus, a formal attempt to abide by the master plan idea leaves at least this trace.

Of course, if it is to have meaning, the plan itself sets goals, embodies decisions; if it is to have practical effect, procedures must be established to see that these decisions have effect on land. The data itself is not necessarily part of the plan, but a necessary antecedent and, occasionally, a supporting reference. Thus, this category relates to the value of making a plan, and not properly to the plan itself. This thrusts back to a basic precept—planning as a process rather than a rigid blueprint, so that for purpose of analysis master-plan-in-progress would be a more accurate though cumbersome title.<sup>9</sup> An accounting analogy may be useful here: the master plan is the balance sheet of the planning process, a snapshot of conditions and goals as they exist at one particular moment in time; a new balance sheet must be drawn up periodically over time for the use of the analyst, at any given point of time, to sum up the changes in standards, ideas, and facts over the interval of time elapsed since the last balance sheet; the moving picture is momentarily forced out of the free flow

<sup>5</sup> 1947, 10 & 11 GEO. 6, c. 51, §5. For a comparison of the British and American techniques, see CHARLES M. HAAR, *LAND PLANNING LAW IN A FREE SOCIETY* 67-70 (1951).

<sup>6</sup> *E.g.*, PA. STAT. ANN. tit. 53, §9166 (1938); MASS. ANN. LAWS c. 41, §81C (1953 Supp.).

<sup>7</sup> LADISLAS SEGOE (WITH THE COLLABORATION OF WALTER H. BLUGHER, F. P. BEST, F. STUART CHAPIN, JR., AND OTHERS), *LOCAL PLANNING ADMINISTRATION* (Int'l City Managers' Ass'n, Chicago, 1941).

<sup>8</sup> The blame for this is sometimes laid at the door of roving planning consultants. The usually lay composition of the planning commission has dictated the wide use of consultant directed plans. See, *e.g.*, *The Consultant and the City Plan*, AMERICAN INSTITUTE OF PLANNERS, PROCEEDINGS AT JOINT CONFERENCE 6-10 (1950).

<sup>9</sup> There is no more clearly marked area of agreement among commentators than that the master plan is not a static blueprint, *e.g.*, SEGOE AND OTHERS, *op. cit. supra* note 7, at 29; EDWARD M. BASSETT, *THE MASTER PLAN* 61-64 (1938). Typical of prefatory statements to master plans is the following: "Thus, it should be added that these plans must be construed as a direction—a framework—for the guidance of the City's growth. New and unforeseen factors which affect this growth should be thoroughly analyzed in the light of these plans and again the 'best thoughts' applied. If it is recognized that cities are things in the process, then, any planning to be of value must be flexible to a degree and certainly continuing. In this respect, to amplify on a thought of John Dewey, it is not sufficient to achieve a planned City of Fairbanks, but far more . . . a planning City of Fairbanks." R. W. BECK AND ASSOCIATES, *WOLF, 1 COMPREHENSIVE PLAN, FAIRBANKS, ALASKA* (1954).

of life and time into the static balance sheet or printed master plan for the sake of convenience of analysis and discussion. But the plan itself is basically a flexible point of departure.

## 2. A Program for Correction

By hypothesis the plan serves to indicate the area's sore spots and functional deficiencies. The enabling acts are necessarily couched in general welfare terms.<sup>10</sup> Hence, the stress on safety from fire and other dangers, provision for light and air, promotion of proper distribution of population, adequate supply of "public requirements." By asking the right questions, it helps answer the fundamental query, where do we begin? It probes for community needs not obvious at a given time. By comparing these sore spots in relation to their effects upon other aspects of the area's physical development and the magnitude of their repercussion upon the people, as well as inadequacies in the rendering of any municipal services to which people aspire, some priority of action can be recommended. In making determination of priority, of the city's "resources, possibilities and needs,"<sup>11</sup> the planners have stressed that financial ability and community predilections must be weighed.

## 3. An Estimate of the Future

The Standard Planning Act directs the planning commission to survey present conditions "and future growth" of the municipality, and directs that the plan shall be made with the general purpose of guiding a development of the municipality which will, "in accordance with present and future needs" best promote the community welfare.<sup>12</sup> In determining goals some attempt must be made to grapple with the changes of the morrow, for obviously, as the term "planning" readily implies, the planner should be concerned with emerging conditions. Thus, we are again advised by professional planners—and by some indefinite provisions in the acts—plans must be premised upon estimates of industrial growth, of the future age and group compositions of the population, and the other variables affecting the physical development of the community.

Thereby master planning puts a brake on the natural tendency to plan only for the immediate. It is the long-range point of view that is put forth as a unique contribution of the planning perspective. Alfred Bettman with characteristic cogent simplicity put it this way: "One of the personal difficulties of planners is that they itch to plan something they will live long enough to see, which is a bad itch from the point of view of good planning."<sup>13</sup> A mid-way view, perhaps, of this relation (although closer to the Bettman view than a first glance might warrant) is expressed by the California Planning Act's injunction that the master plan shall be "for a reasonable period of time next ensuing" after the adoption thereof as may practically

<sup>10</sup> The restatement of the judicial definition of the police power is almost universal.

<sup>11</sup> To use the words of the Massachusetts Enabling Act, MASS. ANN. LAWS c. 41, §81C (1953 Supp.).

<sup>12</sup> STANDARD PLANNING ACT, *op. cit. supra* note 1, §7.

<sup>13</sup> ALFRED BETTMAN, CITY AND REGIONAL PLANNING PAPERS (13 HARVARD CITY PLANNING STUDIES) 8 (1946).

be covered thereby.<sup>14</sup> Of course, only approximations of the city's future can be made. Consequently, to realize the full potentialities of the use of the plan, periodic modifications of the general plan should be required. This is outrightly recognized in the British legislation, which requires a five-yearly review of the development plan in the light of the then existing conditions.<sup>15</sup> The American acts more generally provide that the master plan may be amended "from time to time." Despite the inherent limitations on foreseeability, some awareness of prevailing direction will be attained; upon this basis anachronistic development can be curbed—that is, provided this potential use of the long-range view is allowed some play in the actualities of land development, and controls over such development.

#### 4. An Indicator of Goals

The master plan should not merely incorporate ascertained or probable trends of development. Otherwise, only an incomplete job would ensue. Objectives should be set in terms of what kind of city the community wants. After the alternative courses of conduct have been presented, debated, and a selection made, the plan represents the decisions and judgments of a community concerning its desirable physical form and character. In this respect it is a blueprint of values—although once more its evolving nature must be emphasized. The plan can never be a total solution, for it exists over time, just as it is a statement of values at one moment in time. In providing this value scheme it brings to bear upon debate of current physical development long term considerations founded on basic assumptions. And while predicating goals, the problems that may impede their achievement, as well as the means for circumventing the obstacles, thrust themselves forward for analyses and solution. Hence, its educative force on the planners and the planned is again apparent—and its potentiality in the sphere of land development if these goals are allotted a role in the land-use field. Again, if the plan is backed by sanction, it itself becomes a factor in forcing the direction of the future.

#### 5. A Technique for Coordination

The planning commission is conceived of by the planning enabling laws as an integrating agency. It is directed to study and crystallize the inter-relationships of the various land-uses and structures within the city. With different bodies concentrating on streets, parks, school sites, zoning, etc. (and with the increasing tendency to delegate new measures such as public housing or urban redevelopment to newly created authorities), there is a danger that each specific activity affecting the physical environment will lack coordination with the others, and that maladjustments, inefficiencies, and waste will ensue. It is the special task of city planning—comprehensive planning—to supply this coordination and mutual adjustment. The master plan is the instrument used to fulfill this function, in the words of the Pennsylvania statute, of "guiding and accomplishing a coordinated, adjusted, and

<sup>14</sup> CAL. GOV'T CODE §65271; see also §65201.

<sup>15</sup> Town and Country Planning Act, 1947, 10 & 11 GEO. 6, c. 51, §6.

harmonious development of the city and its environs. . . ."<sup>16</sup> The various land-uses and physical installations—the physical expression of the myriad of human activities in the city—are combined into a coordinated system. In so far as possible, each piece of property is to be in the right location for its particular use. This will guide the planning activities to achieve greatest efficiency of the whole.

By embodying information and standards concerning these inter-relationships, the plan can provide a pattern against which specific proposals for use or building may be viewed. As such, it "represents a recognition . . . of the fact that the value of each specific thing is determined only in relation to things outside itself, and that therefore one must have a guide to things outside in order to make intelligent decisions about the specific thing."<sup>17</sup> Through its use as a check-list, a more accurate realization of the consequences of any specific planning action may be acquired. And to the degree that the plan carries weight, a touchstone upon which to judge the merit of a proposed action is provided.

The coordination is not only horizontally with other activities affecting the physical environment, but also over time. It is the long-range point of view and the phasing of the program for reaching the ultimate objectives that emphasize the potential contribution of the master plan.

#### 6. A Device for Stimulating Public Interest and Responsibility

What the previous categories of the values served by the master plan may very well add up to is simply this: the chief purpose of the master plan is that of mutual education. In the process of making a master plan, the planner may learn which issues are the relevant ones so far as the people are concerned, what terms are meaningful to them, and which alternatives make sense as they view them. This education of the planning board and staff is crucial for any plan to survive. Concomitantly, mustering public interest and participation in city planning is one of the most serious problems faced by the profession:<sup>18</sup> preparing the plan can be an effective channel of communication. It is generally understood that today full use must be made of the democratic process to achieve understanding and acceptance by the people who are affected by planning, and who must undertake the responsibility of enacting and maintaining it.

Whether the full implications of this view, and the two-way nature of the edu-

<sup>16</sup> PA. STAT. ANN. tit. 53, §9166 (1953); cf. OHIO REV. CODE §713.02 (1953) ("with a view to the systematic planning of the municipal corporation").

<sup>17</sup> Alfred Bettman, in AMERICAN SOCIETY OF PLANNING OFFICIALS, CONFERENCE ON PLANNING PROBLEMS AND ADMINISTRATION 60 (1940).

<sup>18</sup> See, e.g., Pomeroy, *The Planning Process and Public Participation*, in AN APPROACH TO URBAN PLANNING 9-37 (Breese and Whiteman ed. 1953). Since the plan embodies basic goals and policies, an estimate of popular values is a primary necessity. A broad base of public participation is, therefore, to be encouraged.

The enabling acts contain oblique recognitions of this factor. A typical provision is that of Colorado: "The commission shall have power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or any report and may employ such other means of publicity and education as it may determine." COLO. STAT. ANN. c. 163, §169 (1949). See also PA. STAT. ANN. tit. 53, §9168.



cative program, are grasped by the planning enabling laws is somewhat doubtful. Again, the intense concentration on the making of the plan rather than "doing something" with the plan, has weakened any salutary effects the state acts could have achieved. Most acts speak in terms of "making and adopting" *the* plan. The decision-making process as a presentation of alternatives to the citizens, with an evolution by debate and consideration of other alternatives, before a plan is chosen by community acceptance is not the activating assumption of the acts. While this is not precluded by the typical enabling law, its orientation is not towards that full public participation advocated by certain political scientists. Most enabling statutes do require the planning commission "to promote public interest in and understanding of the master plan." But it is primarily a case of the planning commission selling a plan it itself has conceived and formulated. True, many acts require public hearings prior to the adoption of the master plan;<sup>19</sup> but the positive potentialities are ignored.<sup>20</sup> Nevertheless, as occasionally used today by progressive planning commissions, even without express legislative authorization, the use of a series of plans has helped infuse life into the planning process.<sup>21</sup>

#### Evaluation: The Master Plan Is Hortatory

It should be evident from the foregoing uses of the master plan—if these were the sole values derived therefrom—that the statutory mandate to make and adopt a master plan is really synonymous with a mandate to plan. The master plan embodies recommendations for an area's development based on predictions of needs and resources for an estimated period of time. Comprehensiveness (a concern with the interaction of the elements of physical development), projection (a concern with the indicia of change), and policy (a commitment to desired goals) are its major premises.

Considered in this light, the generalized statutory emphasis of the master plan concept as it has thus far been limitedly articulated, is purely hortatory. So perceived, the property owner—and the lawyer in his professional capacity—can remain indifferent to this intellectual exercise of the planning profession. Hence, also, the difficulty of defining more precisely what the master plan is—for it becomes another way of asking what is physical planning.<sup>22</sup>

<sup>19</sup> E.g., N.Y. CITY CHARTER §197b (adopted by referendum Nov. 3, 1936) (1943); MD. ANN. CODE GEN. LAWS art. 66B, §17 (1951).

<sup>20</sup> The master plan is usually open for public inspection, and may be distributed in summary form. The commission often has the duty to consult and advise with public officials and agencies, educational, professional, and other organizations, and individual citizens, concerning the carrying out of plans.

<sup>21</sup> The public relations of planning has of course always been precarious and has elicited varying stratagems. The charge that planning is collectivist regimentation probably caused the following kind of appeal: "Don't think for a minute that you can escape these problems by running away to a new location. . . . You will find that the areas you leave behind breed communism and socialism and increasing dependence on state and federal aid. The only solution is to attack and change these conditions through proper planning." PASSAIC-BERGEN COUNTY PLANNING ASS'N, LET'S FACE THE FACTS ABOUT THE PASSAIC-BERGEN COUNTY AREA 4 (undated pamphlet).

<sup>22</sup> "Master planning seems to me . . . to be absolutely essential for city planning. Indeed I am inclined to believe that on analysis the two will be found to be synonymous, or very nearly synonymous, terms. I am not talking about the application of planning in the current administration, but planning

## III

## WHAT THE MASTER PLAN MEANS TO PROPERTY INTERESTS

Planning law is directed towards (a) having a plan made; and (b) having it influence development. Given the requisite skill and energy, goal (a) may present little difficulty. The core-problem, however, rests in achieving goal (b): how to get the plan, a process of ideas, to touch and concern controls, the process of doing. Here is the area where the property owner's interest, and that of the lawyer he hires to represent it, comes into play; it is also the sphere of activity which concerns the other agencies of local and state government.

Thus far there have developed four primary ways in which local governments exert impact on physical development—public works, zoning, subdivision controls, and protection of mapped streets. To the city planner, the relation of the master plan to such regulatory ordinances is simple and clear. The plan is a long-term general guide for the development of the city; the regulatory laws are tools to bring the plan's goals into realization. Warnings have constantly emanated from the planners that the two must not be confused. "Instead of being itself the city plan, for which unfortunately it is often mistaken," says one of the early standard works in the field,<sup>23</sup> "zoning is but one of the devices for giving effect to it." To select another example, in an unpublished note to his model County Planning Enabling Act, Bettman wrote:<sup>24</sup>

There has been some discussion as to whether the zoning plan is to be conceived of as a part of the master plan. But when the arguments are analyzed, there will be found to be some confusion as to the difference between the planning and the execution. The zoning ordinance is, of course, execution and the planning precedes it. . . . It may be that to some extent a land classification and utilization program, and a zoning plan are synonymous. But the mention of both is desirable so as to make perfectly clear that the zoning plan is a part of a precisizing of the plan for land classification and utilization.

In this translation into results in the physical form and character of the community, what are the advantages attributable to the existence of a master plan? More specifically, what has led to the theoretical desideratum of a two-step process—first the master plan, second the implementary legislation—which is to be found in planning literature and in most planning acts? And what is the bridge between them?

## 1. A Prophecy of Public Reaction

The first use that may be listed, viewing the master plan from the vantage of the as a guide to be used in current administration on specific projects and specific problems." Bettman, *supra* note 17. That planners generally in effect recognize this synonymity, see the collection of remarks on the master plan in EXCERPTS FROM PAKNIKAR THESIS, N.Y.-PHILA. CHAPTER, AMERICAN INSTITUTE OF PLANNERS (1954) (mimeographed) in which one could substitute the word planning for that of master plan, wherever the latter term occurs, and be left with a series of generalized statements on the aims and methods of planning.

<sup>23</sup> SEGOE AND OTHERS, *op. cit.* *supra* note 7, at 44.

<sup>24</sup> Note 14 of Bettman's notes on *A Model County Planning Enabling Act*, in NATIONAL RESOURCES COMMITTEE ARCHIVES (Box 159).

impact it has on men's affairs, flows from the previous categories of Part II, especially number 6. At least one practical event of great importance emerges for the perspicacious developer of land. The master plan is at the very minimum an intelligent prophesy as to the probable reaction of the local governmental authorities to a given proposal for development. Notice is thereby served on parties (public as well as private, it should be noted) dealing in decisions affecting urban conditions as to the probable outcome of their proposals, where these are dependent upon planning approval, or even where the less direct but often more important sanction of needed public cooperation is involved. And, as is the case with the administering of many regulatory devices, more important in final tally than the impact of sanction is the educational influence of the regulatory program. In the light of the master plan, the private land owner may shape his own plans in the plastic stage when they have not yet crystallized; collision with the public interest can in some instances be deflected. Hence, the inclusion of the public interest in programs of land development may be effected without controversy.

## 2. A Tool for the Planning Commission in Making Reports

The previous category of prevision of the future on behalf of the private land developer merges into this one—a basis for internal coordination of government actions and programs. Public action—streets, schools, public buildings, housing—vitaly affects community development. Yet different programs may vary widely in objective and timing. As the Housing and Home Finance Agency recently put it: "What is important is that there be a means whereby the program of any agency can be reviewed and adopted as may be desirable in relation to other programs in the community and in relation to one over-all plan."<sup>25</sup>

This potentially vital review function has been assigned to the planning commission. The usual procedure requires that before taking action necessitating expenditure of public funds, incidental to the location, character, or extent of a government building, the proposal shall be referred to the planning commission for review and recommendations. The effect of such recommendation varies widely among the states. In some instances it has no consequence; only the moral and publicity preventives are available. In others, an overriding vote by the local legislature is necessary. Sometimes this is a unique veto power, where more than a majority—as much as three-fourths—is required to override the commission's disapproval.<sup>26</sup> And,

<sup>25</sup> HOUSING AND HOME FINANCE AGENCY, SLUM CLEARANCE AND URBAN REDEVELOPMENT PROGRAM, THE GENERAL COMMUNITY PLAN: A PRELIMINARY STATEMENT 2 (1950). For the enthusiastic reaction of one planner, see Agle, *Housing and Urban Redevelopment*, in AN APPROACH TO URBAN PLANNING, *op. cit.* *supra* note 18, at 54-76.

<sup>26</sup> *E.g.*, PA. STAT. ANN. tit. 53, §9188 (1953); OHIO REV. CODE §713.12 (1953). *Cf.* ME. REV. STAT. c. 80, §87 (1953) (apparently a  $\frac{2}{3}$  vote is required for reversal). The provision for an extraordinary majority to overrule the commission is apparently unique in our governmental structure. Yet the planning commission in the exercise of this power is continually referred to merely as a recommendatory or advisory body. *Gratton v. Conte*, 364 Pa. 578, 73 A.2d 381 (1950) is interesting for the contention there made that even with this increased percentage, the commission could be overruled only when the council specifically found the recommendation to be wholly arbitrary.

in some instances, two steps are required: it must be overruled by the sponsoring municipal agency, and then by the local legislature.<sup>27</sup>

This coordination not only is between various governmental agencies, but may also be extended by the enabling act to include these activities and those of private developers. An example is the recent spate of legislation setting up public housing and urban redevelopment authorities. Nearly all of these require the new social welfare programs to accord with a master plan of land use for the community. Again, where referral of subdivision applications for a report by the commission is required before the plat may be filed, the master plan may influence the commission's decision.<sup>28</sup> In some instances, it is conclusive.

To Bassett, the author of the standard work on the master plan,<sup>29</sup> the use of the plan was strictly as a private guide for the planning commission. This is borne out by the Standard Planning Act, which makes no provision that the municipal legislature shall approve or adopt a master plan. Although not considering it quite as bad as legislative adoption, Bassett was dubious even of that Act's requirement that the plan must be adopted by the commission in whole or in part.<sup>30</sup> The fetish of plasticity and ease of change made him question even this relatively minor type of finalization. This attitude is flatly embodied in his Model Planning Law: "It [the master plan] shall be a public record, but its purposes and effect shall be solely to aid the planning board in the performance of its duties."<sup>31</sup>

The paradoxical conclusion emerging from the Bassett position is that it makes discussion of the legal aspects of the master plan superfluous.<sup>32</sup> In his Model Law, its existence is not a condition of referral to the commission. Indeed, the municipality has the option not to refer at all. Subdivision control is not dependent on the prior formulation of a plan, nor are any of the planning controls. The master plan becomes solely an engineering technique which the commission is encouraged to use.<sup>33</sup> As such, any effect the statutory direction to make a plan has, must operate

<sup>27</sup> N.J. STAT. ANN. §40: 55-1.13 (1953 Supp.).

<sup>28</sup> N.J. STAT. ANN. §40: 55-1.14 (1953 Supp.). Section 40: 55-1.20 provides that when the master plan for streets has been adopted the board may require that the streets shown on the plat conform in design and in work to the proposals shown on the master plan.

<sup>29</sup> THE MASTER PLAN (1938).

<sup>30</sup> "It ought to be a plastic plan kept within the confines of the commission." *Id.* at 67-68. "A master plan is nothing more than the easily changed instrumentality which will show a commission from day to day the progress it has made." *Id.* at 5.

<sup>31</sup> EDWARD M. BASSETT, FRANK B. WILLIAMS, ALFRED BETTMAN, AND ROBERT WHITTEN, MODEL LAWS FOR PLANNING CITIES, COUNTIES, AND STATES (7 HARVARD CITY PLANNING STUDIES) 40 (1935).

<sup>32</sup> See THE MASTER PLAN, *op. cit. supra* note 29, at 118, where Bassett strongly opposes the requirements of a  $\frac{2}{3}$  or  $\frac{3}{4}$  vote by the local legislature to override the commission's recommendation. Contrast section 6 of his Model Planning Act with that of Bettman. See page 33 of MODEL LAWS FOR PLANNING CITIES, COUNTIES, AND STATES, *supra*. See also *id.* at 18 and 41.

<sup>33</sup> "The writer's view has been that a master plan should not be adopted by any official body except by a planning commission . . . [otherwise] when the commission desires to alter certain features in it the legislative body must first be persuaded to authorize the change. This is certain to work disastrously because as soon as a plan ceases to be plastic it becomes a quasi-official map which has not been prepared and executed with the care and precision that the law requires in the case of official maps." THE MASTER PLAN, *op. cit. supra* note 29, at 61-62.

through the route of moral suasion. And, *a fortiori*, since the plan does not affect private conduct, there is no job for courts which the general guide can assist.

### 3. A Guide to Effectuating Procedures and Measures

The key-role of the master plan in the coordination of diverse activities affecting the city's land has been noted. This, too, is the role that it can provide for the whole series of legislative acts dealing with the whole series of such activities. The master plan can be most useful in establishing the framework within which to set the legal regulatory devices. Without such coordination, one regulatory device affecting one parcel of land, like zoning regulations, may undo the efforts of other controls over the same parcel, like subdivision regulations. Special regulation of tenement buildings may be rendered wholly ineffective by other laws taking a different approach to the control of the general environment.

Here there has been some confusion in the existing legislation. In the exercise of subdivision controls, the plan is sometimes made a guide for the regulations to be issued by the commission, the regulations having the direct contact upon the private land owner. The term "guide" is too weak in the case of zoning, where the zoning enabling statutes require that zoning regulations be made "in accordance with the master plan"; under other enabling acts, the master plan is supposed to erect the general policy framework within which to set the zoning regulation.

### 4. An Ordinance Regulating the Use of Land

The guide may become the ruler. Sometimes, enabling acts lend immediate binding effect to certain aspects of the master plan. The Pennsylvania Planning Act,<sup>34</sup> for example, makes the master plan itself the regulatory measure for the laying out of streets and parks. It is not a criterion by which to weigh implementary legislation; in itself it regulates and has direct impact on property rights.

It should be noted that this is contrary to the theory of the master plan—at least as understood by many planners. "It [master plan] is in no way legally binding upon private property," to select one example of this thought, "until or unless its recommendations are translated into official changes of the zoning map."<sup>35</sup> But in many spheres this binding effect is accorded the master plan by the enabling acts. Here, its function becomes the simple and familiar one of a government control on private activity. Consequently planning and enforcement may become undesirably confused.

### 5. A Guard Against the Arbitrary

A basic legal consequence of the master plan follows from its "comprehensiveness." This can be broken down into two aspects: by its requirement of information gathering and analysis, controls are based on facts, not haphazard surmises—hence their moral and consequent legal basis; by its comprehensiveness, diminished are the problems of discrimination, granting of special privileges, and the denial of

<sup>34</sup> PA. STAT. ANN. tit. 53, c. 48 (1953).

<sup>35</sup> AM. INST. OF ARCHITECTS, REPORT ON ZONING AND THE MASTER PLAN 9 (1944).

equal protection of the laws. Hence, the two most frequent sorts of attack upon government regulation become less available to the private landowner. If the local community has gone to the point of preparing a master plan, his chances of success in attacking an ordinance, based on the plan, are considerably diminished.

#### Evaluation: Diversity of Legal Impacts

Statutory directives characteristically are buttressed by sanctions. There arises therefore a presumption that master plan provisions are not mere exhortations. This is reinforced by the prominence, both in sequence and length, which these provisions occupy. But while the statutory references are cast in large and hopeful terms, they assign no clear legal position to the plan. The legal impact of planning is significant only as it imports governmental control of physical development; therefore, it follows that the master plan portions of planning law are legally significant only in relation to such control. And in the four broad areas—public works, zoning, subdivision, and streets—thus far traditionally assigned for impact by the master plan, no consistent pattern of interpretation of the effect of the plan on the real world has yet emerged in the legislation or judicial opinions. The whole gambit of possible effects of the plan on land-use controls is run. In some acts there is a tacit recognition that the official map, even though it must be submitted to the planning commission for its recommendation, need not comply with the master plan.<sup>36</sup> The requirement in the Zoning Enabling Act that the zoning ordinance shall be made “in accordance with a comprehensive plan” has apparently carried the courts no further than requiring that the ordinance be reasonable and impartial so as to satisfy the *constitutional* conditions for the exercise of a state’s police power.<sup>37</sup> In others, the adoption of the master street plan is necessary before the planning commission can become the platting authority, but no further mention is made of tying the commission’s activities to the plan.<sup>38</sup> And still others give the master plan itself the direct effect of a detailed land-use ordinance. Some acts do not even require the adoption of the master plan in order to exercise subdivision controls.<sup>39</sup>

<sup>36</sup> N.J. STAT. ANN. §40:55-1.3 (1953 Supp.). The New Jersey act clearly distinguishes between the “master plan” and the “official map”; indeed, it takes the form of two separate acts. The Municipal Planning Act (§§40:55-1.1 to 40:55-1.29) deals with the master plan adopted by the planning commission; the Official Map and Building Permit Act (§§40:55-1.30 to 40:55-1.42) deals with the official map adopted by the local legislature. There is no close nexus between the two, however. True, if the relevant portion of the master plan has been adopted, the legislature must refer the proposed official map (or amendment thereof) to the planning board for its recommendation (§40:55-1.35). But no further statement is made in the act as to the consequences of disapproval by the commission because of conflict with the master plan.

<sup>37</sup> E.g., *Parsons v. Town of Weatherford*, 135 Conn. 24, 60 A.2d 771 (1948); *Kuehne v. East Hartford*, 136 Conn. 452, 72 A.2d 474 (1950).

<sup>38</sup> E.g., TENN. CODE ANN. §3407.10 (Michie Supp. 1943).

<sup>39</sup> E.g., TEX. REV. CIV. STAT. ANN. art. 974a (1954). Washington, which has the famous duty to “inquire into the public use and public interest proposed to be served by the establishment” of the subdivision (WASH. REV. CODE §58.16.060 (1951)) nowhere mentions the applicability of the master plan in making such or other determinations.

## IV

## THE CRITERIA FOR A STATUTORY CHECK-LIST

An appraisal of existing planning legislation in the light of these two categories of potential uses of the master plan reveals striking inadequacies which require amendments. The importance of mutual education of the planner and the citizen needs to be stressed—right from the initial stage of survey where citizens' groups and associations, by the sheer process of gathering information, can learn of the adjustment of values. Secondly, the inevitably restrictive impact of the master plan—if it is to have any meaning—must be given effect by a general control, at crucial points, over implementary legislation regulating private use of land, as well as over land development by government agencies; here, the regulatory and planning aspects of the plan itself should be dissociated.

Why the master plan has not developed in the United States, and, more particularly, has never received full recognition from the courts, is subject to a simple explanation. The acts are vague as to what constitutes a master plan. Plans, even where adopted, are so indefinite as to what the city should be that they are incapable of measurable realization in the courts. The basic postulate of this paper, therefore, is that the planner's job is to rewrite the enabling acts so as to give them more concreteness. So far as possible the act should require the preparation of a minimum check-list for the people dealing with the plan—other city agencies, land developers, lawyers, and courts. Where the brush strokes are so broad that no one knows what they mean, city planners cannot register surprise when their own private interpretation does not become the accepted one. If the act can clearly state the type of policies and goals that should be covered by the plan, the master plan can be given substance, for any implementing legislation that does not accord with such statement would be *ultra vires* the enabling act.

The current formulation of the master plan, as directed by the typical enabling act, falls short of this desideratum. Usually, such acts content themselves with repeating the language of the Standard Act:<sup>40</sup>

Such plan . . . shall show the commission's recommendations for the development of said territory, including, among other things, the general location, character, and extent of streets, viaducts, subways, bridges, waterways, water fronts, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power, and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities, or terminals; as well as a zoning plan for the control of the height, area, bulk, location, and use of buildings and premises. . . .

If the enabling law is to help the master plan play an important part in the

<sup>40</sup> STANDARD PLANNING ACT §6.

formulation and administration of government controls affecting land, it needs to be far more specific in its focus on objective and means than the above enumeration. And if the coordinative and the long-run perspectives of the plan are its unique contributions to making land-controls through the intervention of the state more scientific, the act should help clarify these roles. Thus, the makers of a plan should be directed to study and reach conclusions for presentation to the citizenry on certain underlying factors affecting a city's growth. This requirement should be mandatory. The findings and objectives to be covered by the plan should be full enough to guide the legislature in enacting ordinances which bite on property rights, and to give content to a judicial scrutiny as to whether the ordinance corresponds with the plan.

The stress, it is submitted, should be away from the physical and building aspects of development, and from, also, the public or municipal part of such development. Emphasis on the one factor reflects overconcern not only with the physical but also with the execution rather than the planning phase; stress on the latter factor flows from the view of the plan as a tool for the commission to be used primarily to check on land-use activities of other municipal departments, an inter-family arrangement, so to speak, rather than a use of the plan's criteria in the regulation of the private land developer. It does not seem too unfair a characterization of the enabling acts to say that the master plan in the past has really been thought of as a preliminary or sketchy zoning ordinance, street layout, etc.

Obviously it would be impertinent to attempt to list all such factors here, but a glimpse at the type of specifications can be attempted. The master plan should be required to state conclusions as to anticipated future population; anticipated employment opportunities; the goals for housing; transportation objectives; industrial, commercial, and residential needs; the over-all space requirements for each of these needs; and the relationship which shall exist between the spaces allotted for the different uses. The master plan should be asked to specify in general terms the amount and type of community facilities which shall be provided, and their interaction with the various land use areas; desirable standards of population density, of light, air, and open space; methods of transportation and communication and their inter-relation with the various land use areas. This is simply a starting suggestion as to the types of things the statutes should require the master plan to contain.

This sort of formulation, it should be noted, can give the assistance the court was seeking in the *Fairlawns* case.<sup>41</sup> The validity of the zoning ordinance turned, in the court's mind, upon its being "expressive of a plan which is comprehensive." This it defined as a relation "to the reasonable needs of the community, both at present and in the foreseeable future." And, with no further specifications as to what considerations of "reasonable needs" and the "foreseeable future" are, the court was compelled to strike out on its own.<sup>42</sup>

The zoning regulations in question are clearly expressive of a plan to maintain the pre-

<sup>41</sup> *Fairlawns Cemetery Ass'n v. Zoning Comm'n of Bethel*, 138 Conn. 434, 86 A.2d 74 (1952).

<sup>42</sup> 138 Conn. at 440, 86 A.2d at 77.



dominantly residential character of the town but still permit the less objectionable forms of business. The plan is not applied to a narrowly restricted area or for a limited time. In terms, the regulations cover nearly the whole town of Bethel and are in effect for an indefinite time. They leave some districts of the town open for uses other than business and residential. They therefore satisfy the requirement of the statute that such regulations be in accordance with a comprehensive plan.

This may or may not have been the proper planning tests to apply; but in the absence of other legislative guidance there is little room for complaint.

*Ayres v. City Council of Los Angeles*,<sup>43</sup> a notable decision, is a difficult one to understand against any theory of the master plan. It, too, perhaps indicates how amorphous phrasing may mislead the court. That case refused to compel the city council to approve a proposed subdivision. The city wished to impose conditions, mainly relating to dedication of land for highway widening. Petitioner urged that the planning commission could not act since a master plan had not yet been adopted by ordinance of the city council. The court rejected the relevance of this contention, stressing the great amount of time required to draw a complete plan. It also noted that the city charter provided for adoption of *portions* of the plan (though it is not indicated whether relevant geographical portions had been here adopted). The court concluded:

. . . subdivision design and improvement obviously include conformance to neighborhood planning and zoning, and it may properly be said that the formulation and acceptance of the uniform conditions in the development of the district constitute the practical adoption of a master plan and zoning requirements therefor.

The dissent thought this an "amazing statement" because it permitted "practical adoption" to supplant the necessity of observing an apparently forthright statutory directive to enact a master plan. Planners *must* think it amazing because it completely ignores the purpose of requiring a plan, *viz.*, (a) as a check on the commission's competence to pass upon plats; (b) as a base for decision; and (c) as a base for review of that decision.

The court seems to attribute to the plan the sole function of achieving equal protection since it is by the following of what has been done in one part of an area that its "practically adopted" plan is made. The plan then is not a goal but a mirror of what has been done in the past!

In discharging this basic reason for the master plan's existence, the statute should require the publishing of supporting studies for these general assumptions and goals. This has the normal advantages of requiring administrative findings of fact. Not only is the body devising the plan thereby apprised of what it is to do, thereby obtaining a background of information necessary for sound regulation, but the studies will permit the community to analyze the alternative goals presented and to come

<sup>43</sup> 34 Cal.2d 31, 41-42, 207 P.2d 1, 7 (1949). Specifically, the court upheld the requirement that petitioner dedicate ten feet of land, and set aside an additional ten feet for shrubbery for a boulevard contiguous to his subdivision, but apparently independent of it. *Cf.* *Newton v. American Society Co.*, 201 Ark. 493, 148 S.W.2d 311 (1941).

to an intelligent decision. Through the obtaining of data, and its analysis, an awareness of the need for planning (and that its alternative is limitation by course of events of freedom of alternative), and the responsibility it carries, does emerge in the electorate. Furthermore, property owners and the reviewing courts are helped in deciding whether the recommendations make sense or not.

This type of statutory guidance is also fruitful concerning the uses of a plan for the planner listed in Part II. No effort is made at a complete listing of the contents of a plan, nor a stratification as to methods of composition. What is attempted is an instruction to the commission as to the type of goals the citizens should decide about. These are largely generalized relationships of land-use over time which, if established by the master plan, can best carry out the plan's use as an aid for decision-makers.

In the constant struggle of choice between the over-general and the over-detailed, all kinds of gradations are possible. Not only have the present acts been far too generalized, but where they have touched earth, they have tended to be far too concrete. The plan should state the goals—the desirable maximum density of people per area; the question of how to arrange them should be left to the implementing regulation. The singling out by the present acts of *location* of uses seems mistaken. The use of the master plan in some areas of subdivision and street control as a vehicle of legislation should be discouraged. The need for isolating the regulatory from the planning function is overlooked. Unless the two are separated, the broad view will tend to be lost in the day-to-day handling of details. Different types of education and different kinds of people are needed in the different areas of planning and details. And, from the sheer mass of work, bearing in mind the limited resources of staff and time, energies will be devoted to the more immediate, usually more pressing task of the regulating of the land-use activities rather than to the broad, future aspects of such activities.

The stress in the enabling acts on the *location* of the various facilities also appears undesirable. It is the *relation* of airport sites to residential, industrial, and commercial areas that is the long-range planning function. It is not the function of a master plan to examine the territory and pinpoint in detail the sites and locations of the various activities; its job is that of goals and relationships. Blush as one may, it is primarily, as pointed out in Part II, a philosophic guide to a way of life; the pin-pointing of lots, unavoidably necessary in the transmission of planning ideas, is not the optimal use of the plan.

For this reason, the enabling acts should be amended to make clear that the master plan consists of statements of objectives and illustrative materials. The identification of the plan with maps is undesirable, for maps import location. Perhaps the term "diagrams" should be substituted.

Again, if the master plan is to include a zone plan—as is almost universally prescribed by the enabling acts—why not a subdivision plan, street plan, urban redevelopment plan, etc.? This inclusion of the zone plan was probably not thought

through. Rather, it is a reflection of the time and conditions surrounding the adoption of the Standard Planning Act when the zoning instrument was regarded not only as the pack-horse but also the only domesticated animal on the planning team. The logic of the Standard Act would lead to the absurd position of a subsuming of all a municipal government's functions to "city planning"—and under the aegis of the planning commission.

*Lordship Park Association v. Board of Zoning Appeals*<sup>44</sup> is a particularly interesting case for illustrating the serious problem raised if the plan is permitted to assume the function of an official map. The planning board denied approval of a proposed subdivision on the ground that it did not take into account the future construction of an extensive road along the Long Island Sound, a project contemplated in the master plan.<sup>45</sup> On appeal, the court reversed, ordering the town to approve the plaintiff's application. The court stated that the sole ground for disapproving the application was the adoption of the master plan, and the non-conformity with it of the proposed subdivision plat. This, it ruled, was an improper ground. For the master plan's provisions could not be consulted since

- (a) the Council intended it to be only a "preliminary plan" not definitive of town policy;
- (b) no regulations were ever adopted compelling compliance with the plan; and
- (c) no public hearing had been held upon adoption of the plan.

Ground (a) is of course conclusive, if it can be determined that the town council did not intend the plan at all to influence the commission. The court here, however, shows ignorance of the nature of a master plan, at least as it has been propounded by the planning profession.<sup>45a</sup> "The vote of the town council at that time was not to adopt a definitive town plan. It was that the 'preliminary plan' be *adopted and used as a guide for future development subject to future changes*" (emphasis supplied). How else can a master plan operate? Is not the underscored part of the court's statement the traditional definition of the use of a master plan?

Ground (b) is not explained in the opinion and would seem to be another way of stating the court's objection that the plan was not intended by council to be a measure of decision, one that bites into the property rights of a landowner. The court itself must have felt some doubt as to the adequacy of its position for it went on to find a constitutional basis for holding the plan ineffective, a practice usually avoided where adequate non-constitutional grounds for decision are available.<sup>46</sup>

<sup>44</sup> 137 Conn. 84, 75 A.2d 379 (1950).

<sup>45</sup> The plan had been enacted by the Town Council pursuant to special legislation. This state act provided that the town council of Stratford should have "the power to provide a master plan or plans for the entire town or for any part thereof, which plan or plans may provide for the future layout and location of all highways . . . and, if such plan or plans be adopted, may prescribe by ordinance, rules and regulations, determining the manner in which such plan or plans shall be made, filed, recorded, changed, altered or amended . . . and may by rule and regulation compel compliance with such plan or plans." 137 Conn. at 88, 75 A.2d at 380-381.

<sup>45a</sup> 137 Conn. at 89-90, 75 A.2d at 381.

<sup>46</sup> In holding that a public hearing was constitutionally required the court cited no apposite authority.

The point of singular interest in the case is that it shows the master plan being used as a device to acquire the kind of restrictive option that legislation respecting the official map usually bestows. In order for the plan to serve this purpose it must partake of the characteristics of the official map. It is entirely possible to have such a "mixed" master plan (precise and definitive of decision in one respect, general and tentative in others), but—especially here where the plan is adopted by the local legislature—the union of function may lead to confusions.

Practically the most important reason for separating out the two functions is to prevent the allotting of the function of a zoning commission or of the formulation of subdivision regulations to the planning commission. This is, perhaps, the worst manifestation of the overloading detail which may warp the planning function. There is the important consideration, in addition, that the planning commission should be immunized, so far as possible, from the dissatisfactions and pressures where an individual owner is hurt by the land-use regulations.

This practical problem inspired the creation of the independent planning commission. To render it immune from the advances of interest groups, present enabling acts provide that the commission shall be composed primarily of private citizens of high standing in the community; their terms of office are staggered, usually made longer than the executive and the legislature. It is important to note that in those cities where it is the planning commission which is put in charge of drawing the zoning ordinance, or of making and enforcing subdivision regulations, this advantage of insulation does not even exist. For the commission can as effectively—or as ineffectively—ward off the interest groups seeking to change the zoning as it can attacks upon the master plan. If this be the premise of the enabling act, the argument for a two-step process of planning and regulating is weakened. It is true, on the other hand, that the composition of the commission may at least tend in the direction of supporting the zoning or other ordinance.

The basic premise of the master plan is that it is long-range: hence, proper planning of land uses will not be distorted by immediate pressures and short-range considerations. This is the recognized contribution of planning to the running of the ordinary affairs of local government. For example, the granting of a variance to run a grocery store may seem unimportant when focussing on the immediate neighborhood. But long-range planning may show that this will result in a flood of such demands, or be inconsistent with the desirable allocation of land uses for commercial purposes in the entire municipality, or hinder the proposed future evolution of the area into a fine residential one. The expressed aim is to make the master plan play a greater part in men's affairs through its control of executory legislation. The relevant inquiry in formulating a planning enabling act then becomes: if the master plan is to have too definite effect upon zoning or subdivision controls, as would

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While most enabling acts require such a hearing upon adoption of a master plan it has never been suggested that a constitutional requirement is present. For comment on this aspect of the decision, see Note, 49 MICH. L. REV. 909 (1950).

follow from invalidating any implementary legislation in conflict with its provisions, will not those same pressures that are said to distort the implementary controls be brought to bear on the master plan? In fact, the end-result may be worse, for the long-range plan may be distorted in the process. Keeping the plan out of vexatious details may reduce the imminence of this threat.

But planning, in an important sense, cannot afford to withstand "pressures"; if it is to have a chance of success, it must attempt to accommodate them. One crucial function of the master plan is to obtain a basis of consent. The act should require the preparation by the experts of a series of alternative plans, on which hearings are held, with the legislature selecting one. Only by continued discussions of alternative courses of action (not in the sense of a legal hearing in which a definite proposal is submitted for argument) can the objectives be formulated, and the goals stated in a way which makes sense to the people. Planning is a leading to understanding and the possibility of community acceptance of the master plan, not, as it has often tended to be, a holier-than-thou attitude with respect to *the* plan. The idea of experts who prepare *the* plan is a static one. Those who are affected by the plan must participate in its making and in carrying it out. And as it changes, as it must, to cope with new conditions and to introduce new concepts, the different interest groups must be won over, or reconciled.

Overloading of detail may also impair public acceptance. This is critical where the plan is regarded as a statement of goals, isolated and illuminated by experts, but selected by the representatives of the community. Once the master plan is limited to findings, principles, and relations, and is prevented from containing detail, it will be more understandable and arouse greater interest. Proposals concerning mass transportation as opposed to the use of private automobiles, or the separation of industries from residences are exciting issues which can command the attention of the voter. The technical details of whether a setback should be ten or twenty feet, or the differences between floor area ratios and other bulk controls are not subjects which can stimulate such debate, nor receive definition and redefinition by the ordinary public. The plan will help achieve the goal of stimulating the people, focussing their interest on planning, and induce them to undertake the responsibility of enacting the planning measures necessary to achieve these goals. Bearing this proposal in mind, a broad statement as to how much daylight shall be provided in each room—not the details of a zoning plan which require much spelling out in scientific terms of angles of elevation—is the proper concern of the master plan. The comprehensive scope of the master plan gives it great imaginative appeal, and is therefore a peculiarly appropriate way of stimulating public interest in the whole city. Indeed, this is an overwhelming reason for the two-step process. The plan should be adopted and amended only after public hearings by the planning commission with further public hearings by the legislature.<sup>47</sup>

<sup>47</sup> The New Jersey courts in a series of cases involving actions by municipalities to set aside or enjoin conveyances of lots for failure to obtain plat approval, mentioned as ground for the denial of relief that

## V

## THE WRITTEN MASTER PLAN

The master plan is an ever changing recordation of the city planner's *end-result thinking*, embodied in a series of diagrams, charts, standards, and policies. Theoretically there is no need for the recordation of these results. The fact that a planning jurisdiction has not deliberately produced "master plan" in progress does not conclusively indicate its absence. Given an individual who (1) is engaged in city planning and (2) has the capacity to retain mentally all the ingredients that make up that process, there would be no need for that body of materials called the master plan. The improbability of such a mnemonic freak<sup>48</sup> indicates, however, that the failure to engage in the task of producing a tangible master plan shows a failure to engage in city planning. In short, the need for the master plan manifests nothing more than the need for city planning itself.

Nor is it a self-proving proposition that the existence of a master plan affects the constitutional validity of specific land-use controls. The injury alleged in each case of land-use regulation must be pitted against the measure's relation to the health, safety, morals, and welfare of the community.<sup>49</sup> Production of facts and arguments to substantiate the relation would not seem to be dependent upon evidence of a master plan: facts and arguments do or do not have strength independent of their embodiment in a tangible plan. It might very well be that the validity of a land-use control would depend upon whether a particular design of development was being pursued; but the existence of such a design can be argued without pro-

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it had either not been alleged or proved that a master plan had been previously adopted by the planning board. *City of Rahway v. Raritan Homes*, 21 N.J. Super. 541, 91 A.2d 409 (1952); *Borough of Oakland v. Roth*, 25 N.J. Super. 32, 95 A.2d 422 (1953); *City of Newark v. Padula*, 26 N.J. Super. 251, 97 A.2d 735 (1953). In all of these cases, however, it was similarly either not alleged or proved that a planning board had been created by the local governing body. Conclusive weight cannot therefore be attached to the language respecting the plan. The subdivision statute (N.J. STAT. ANN. §40:55-12), however, as regards the master plan was the same as that involved in the *Ayres* case, *supra* note 43. There the court seemed to read the statute as requiring the prior formulation of the master plan.

Fred G. Stickel speaking before a Bergen and Passaic Counties Planning Seminar (reproduced in 62 REGIONAL PLAN ASS'N BULL. 4 (1952)) argued, prior to these cases, that regardless of any specific section of the statute, when read as a whole "you cannot help but see that all actions and powers of the board are based on the premise that its first function and duty, *i.e.*, the preparation and adoption of a master plan, has been done. . . . I realize full well that many boards are exercising their functions without having prepared and adopted some sort of master plan, and they are getting away with it. Why, therefore, should I demur? Because if I am right, and the courts agree with me, planning will receive a definite setback at a very inopportune time."

The newly enacted New Jersey planning statutes effective January 1, 1954 (N.J. STAT. ANN. §40:55-1.1-40:55-1.1.42) remove any doubt and make clear that there is no such requirement. In this respect the new Act follows its evident design throughout to reduce the power of the commission and thereby the status of the plan.

<sup>48</sup> Formal embodiment is essential to lend it requisite status, as concerns public relations, and to impress its existence and significance on the lawmaker. Most important, however, is that there be in existence definite evidence of the substantive elements of the plan.

<sup>49</sup> The classic statement in the zoning field is, of course, *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926). A nearly exhaustive list of zoning cases is contained in 117 A.L.R. 1117-1148 (1938).

ducing a tangible master plan.<sup>50</sup> (Indeed, the latter is no assurance that the design will be followed for, according to orthodox planning theory, the master plan gives no legal status to its constituent recommendations.) But the fact nevertheless remains that zoning and subdivision litigation gives rise to questions with respect to which courts might well feel the lack of touchstone of decision lends considerable psychological sway to guiding policies which are presented in tangible form. Courts inevitably do lend weight to expertise. True, the same effect can be achieved (as, say, in the proposed New York City Zoning Regulation) by a direct expression in the zoning ordinance of the policy reasons for the insertion of the various provisions, and of how the whole has been shaped to achieve a more efficient and attractive city. Yet the existence of a master plan (assuming the measure in issue conforms thereto) indicates in a more satisfactory fashion that this expertise has really been put to work on the particular problem before the court. Thus the deference it commands is more likely to be brought into play.<sup>51</sup> In this oblique manner the master plan principle may affect planning litigation. Hence, the value of making a master plan both as a basis for winning community consent to any proposed regulations, as well as enhancing the chances for judicial approval of a particular regulation. Hence, also, its importance for the property owner.

This may be the major significance of the master plan today in terms of impact on the property owner, as listed before in Part III. If the plan is regarded not as the vest-pocket tool of the planning commission, but as a broad statement to be adopted by the most representative municipal body—the local legislature—then the plan becomes a law through such adoption. A unique type of law, it should be noted, in that it purports to bind future legislatures when they enact implementary materials. So far as impact is concerned, the law purports to control the enactment of other laws (the so-called implementary legislation) solely. It thus has the cardinal characteristic of a constitution. But unlike that legal form it is subject to amendatory procedures not significantly different from the course followed in enacting ordinary legislation. To enact a nonconforming measure amounts merely to passing the law twice.

At the present stage of development, however, it is on so slender a reed that the touchstone values of the master plan must hang. This may prove disappointing to planners. As Mr. Justice Holmes pointed out,<sup>51a</sup> “there is in all men a demand for the superlative.” The yearning for an absolute principle, and a master plan that truly answers all questions is understandable.

Yet this seems the limited function to which the master plan can withdraw in order to perform most effectively in the grand effort to improve American cities: a reminder of the myriad of activities affecting land, their inter-relation, their long-run

<sup>50</sup> This may be what the majority was driving at in *Ayres v. City Council of Los Angeles*, *supra* note 43.

<sup>51</sup> See, e.g., *Berkfield Realty Co. v. City of Orange*, 12 N.J. Super. 192, 79 A.2d 326 (1951).

<sup>51a</sup> Holmes, *Natural Law*, 32 HARV. L. REV. 40 (1918).

effects which the day-to-day administrator is too busy to consider. The implementing legislation, on pain of being outside the statute, must conform to its generalized propositions. True, to remove any conflict, the local legislature need but repass the master plan, changed so as to permit the regulation presently desired. But the need of the formal step of amending the plan insures to some degree that the expert's long-range and coordinative contributions are given play in the real world. It may also be desirable—along the lines of the greater than majority vote required by some statutes if the local legislature desires to reverse the planning commission's recommendation concerning a proposed municipal construction—to require that for this purpose the legislature can amend the plan only by a two-thirds or three-quarters vote. This will highlight the master plan's primary role as a constitution. It is a point of view which should be introduced in a courtroom when a particular measure is being assayed.

Existing planning enabling legislation is in large measure based on assumptions of the role of the master plan which have not been clarified, nor established by experience; not enough thought has been given in the planning profession to the crucial phase of planning implementation in the planning process; the proper contents of the plan, as determined by the needs of the particular decision-makers for which it is to serve as a guide, have not been analyzed; on the local government level, indifference is the general reaction to the master plan, largely attributable, it is suggested, to its failure to develop as an authoritative, legally enforceable device. No detailed plan should be adopted except as authorized by and pursuant to the master plan. From the perspective of the lawyer and his client,<sup>52</sup> it is the ultimate impact of the plan on property that determines the vital uses of the master plan, and, therefore, its proper contents. To the degree that machinery is not created for implementing the master plan in the existing world of real property development, society is denied the very real values of the planning process.

Only recently have theory and practice begun to converge in the administration of cities. The search for certainty has warped the function of the master plan; similarly, and paradoxically, the polar principle of flexibility has obviated its usefulness as a standard. An analogy to the field of law is not inappropriate. To the layman, there are clear rules of law that speedily resolve disputes and give ready answers; to the layman, too, the master plan can, with precision, solve all future land-use problems. To the professional, in both instances, life is far more complicated and in too much a state of flux to be handled in so slide-rule a fashion. The lawyer, of all people, should be sympathetic to the planner as he grapples with this heavenly kingdom of the master plan.

<sup>52</sup> The famous "bad man" suggested by Mr. Justice Holmes as the focus for understanding the meaning of law? See Holmes, *The Path of the Law*, 10 HARV. L. REV. 457, 459 (1897).



## APPENDIX: STATE PLANNING ENABLING ACTS

As yet, litigation over the master plan has been scarce. An understanding of the legal accommodation given that concept is therefore derivable primarily from the controlling statutes. The approach of this Appendix is to analyze and reassemble the various sections of the state planning enabling acts so as to highlight the significance, if any, of the master plan's impact on property rights.

Charts cannot give a complete and precise picture of the statutes involved, partially because the statutes themselves are not precise. The purpose of these charts\* is not to convey substantial analysis of the laws of any one state, but rather to aid in gaining an "over-all" view, through the device of comparison, of what at this date the master plan means in the United States.

Chart I deals with the composition of the planning commission, its place in politics, and its relation to the legislature. The relation of the commission, usually charged with formulating the master plan, to the other agencies of local government is of obvious importance to the private land developer.

Chart II deals with the preparation of the master plan—who is primarily responsible for its preparation, adoption, and amendment.

Chart III analyzes the contents of the plan—with the varying emphases on the plan as a map, and the shadings from architectural to economic and social planning.

Chart IV, of the greatest interest to the lawyer, analyzes the enabling acts in terms of how they translate plans into action.

Chart V deals with the legal impact of the master plan on the other agencies of government.

\*The following abbreviations are used in the charts:

P/C—planning commission;

M/P—master plan;

SPA—Standard Planning Enabling Act;

Z/C—zoning commission;

N/P—no provision.

TABLE I  
THE PLANNING COMMISSION

State	No. on P/C	Ex officio members	By whom appointed	By whom approved	Compensation	Term of office	Removable by whom; what grounds	Qualifications
Standard Planning Act	9	Mayor, administrative official chosen by mayor, and member of council chosen by council	Mayor, if he is elected; if not, by officer designated by council	N/P	None	Six years for appointed members, staggered each year; ex officio members, for term of own office	Mayor, for inefficiency, neglect, or malfeasance, councilman removable only by council, on same grounds	Appointed members may hold no other municipal office, except that one may be on zoning board of appeals
Alabama	9	Same as SPA	Same as SPA	N/P	None	Same as SPA	Same as SPA	Same as SPA
Arizona (County)	9	County assessor, engineer, and attorney serve in an advisory capacity	County Board of Supervisors	N/P	None except reasonable travel expenses	Four years, staggered each year by supervisorial district	County Board, for cause	Qualified electors, residents, and real property owners; 3 from each supervisorial district; not more than one of the 3 from any incorporated municipality
Arkansas	At least 9	N/P	City council	N/P	None	N/P	N/P	At least 2/3 hold no other office
California (Amended stat. shown below dash line)	5-9 5, 7, 9	N/P City officers; not more than 1 on P/C of 5, 2 on P/C of 7, 3 on P/C of 9	Mayor	Leg.	Up to \$10 per meeting, limited to \$50 per mo., plus travel expenses Any amt. set by leg.	Four years, staggered roughly each year Ex officio for official tenure	Mayor, at his pleasure, with approval of leg.; or by majority vote of leg.	A majority must not be officials of the city
Colorado	5-7 (no limit on home-rule municipalities)	If 5 members, then mayor & member of council are 2 of the 5; if 7 or more, then mayor, administrative official selected by mayor, and member of council, selected by council	Same as SPA	N/P	None except reasonable traveling expenses to city planning conferences, meetings of planning institutes, etc.	Six years, staggered so that 1/3 of P/C turns over every two years	Same as SPA	Bona fide residence in municipality for duration of membership; appointed members may hold no other office, except that 1 may be on zoning board of appeals
Connecticut	5	Chief exec. officer, and city engineer or comm'r. of pub. works	N/P	N/P	N/P	As fixed in ordinance; not more than 1/3 of terms to expire in any one year	N/P	Electors holding no salaried municipal office
Delaware	5-9	N/P	Mayor (if no mayor then by	City council if	N/P	3-5 years, staggered yearly	Mayor for cause, after hearing, &	N/P

TABLE I—CONTINUED

State	No. on P/C	Ex officio members	By whom appointed	By whom approved	Compensation	Term of office	Removable by whom; what grounds	Qualifications
			town commissioners)	mayor appoints			with approval of city council; if no mayor, then by commissioners	
Florida <sup>1</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Georgia (Gen'l Stat.)	3-7	N/P	Leg.	N/P	Reimbursement for actual expenses	Up to four years	Leg., after hearing, for cause or on written charges	Any citizen of municipality, except member of leg.
(Spec. Stat.) <sup>2</sup>	14	See under Qualifications	Some by mayor, some by Commissioners of Revenue & Roads	N/P	Actual expenses incurred	Three years, staggered	N/P	Citizenship requirements giving representation to each county; include mayors of municipalities in area, & chairmen of Bd. of Commissioners of Roads & Revenues
Idaho	6-12	Up to 1/3 of the members may hold other office	Mayor	Council	None	Ex officio: term of office; appointive: 6 years, staggered every 2 years	Leg., after hearing, by majority vote	Not more than 1/3 may hold other office; all must be resident taxpayers, except one, who may be non-resident taxpayer; appointments should be without respect to political affiliation
Illinois	N/P	Mayor & pres. of bd. of local improvements	N/P	N/P	N/P	N/P	N/P	N/P
Indiana	9 or 10	Member of council chosen by council, member of bd. of pk. commissioners chosen by commissioners, member or representative of bd. of pub. wks., city engineer, and in 1st class cities, county surveyor	Mayor appoints other five	N/P	None, except expenses, including per diem allowances to citizen members for attending mtgs., not to exceed \$5/mtg. or \$10/mo./member	4 years, staggered yearly for citizen members; others co-extensive with terms of office unless replaced	ex officio can be replaced by another from same bd. at 1st regular meeting of year	Of five appointees, not more than 3 of same political party; appointees must be citizens citizen members must: 1) have knowledge and experience in matters pertaining to development of city, 2) hold no other office in the city gov't., 3) be residents of the city
	7 in cities without certain depts.	3 from city govt.	Common council appoints 3 from city govt., mayor appoints 4					"citizens" and not over 2 of same party for mayor's appointees (& other requirements)

TABLE I—CONTINUED

State	No. on P/C	Ex officio members	By whom appointed	By whom approved	Compensation	Term of office	Removable by whom; what grounds	Qualifications
Iowa	At least 7	N/P	Mayor	Council	Actual expenses, which are subject to approval of Council	5 years; not more than 1/3 to expire in any 1 year	N/P	Citizens of municipality qualified by knowledge or experience; no elective office-holders
Kansas	7-15	N/P	Mayor	Council, or bd. of commissioners	None	3 years staggered yearly	N/P	2 residents of surrounding area of city covered (3 mi.) by act; the rest residents of city
Kentucky <sup>3</sup>	7	Mayor, adm. official selected by mayor, and member of leg. chosen by leg.	Mayor	N/P	None	6 years, staggered yearly	Mayor (leg. for member of leg.) Same as SPA	Same as SPA
Louisiana	5-9	N/P	Mayor	N/P	None, except travelling expenses may be paid to & from planning conferences, etc.	Equal to membership, number staggered yearly	Mayor, for inefficiency, neglect of duty, or malfeasance in office, after hearing	Hold no other office
Maine	5	N/P	N/P	N/P	N/P	5 years, staggered yearly	N/P	Can't be salaried official of the municipality
Maryland	5	1 member of the council	Mayor	Council	None	5 years, staggered yearly	Council for inefficiency, neglect of duty or malfeasance in office	N/P
Massachusetts	5-9	N/P	Mayor	Leg.	N/P	5 years, staggered yearly	Mayor, with approval of leg.; for cause	N/P
Michigan	9	Same as SPA	Same as SPA	Council	None, except reas. travelling expenses to planning institute meetings, etc.	3 years, staggered yearly	Mayor, after hearing, for cause	Representative of businesses and professions; no other office; one may be on zoning board
Minnesota <sup>4</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P other than resident citizens
Mississippi <sup>1</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Missouri <sup>5</sup> (1st Class Counties)	10	Member of leg. chosen by leg., county highway engineer, and chairman of 2 municipal plan-	6 residents appointed by leg.	N/P	None, except expenses allowed not to exceed \$10/mtg. at	Ex officio—term of office, but not to exceed 4 years	N/P	6 residents must be residents of unincorp. area of county

TABLE I—CONTINUED

State	No. on P/C	Ex officio members	By whom appointed	By whom approved	Compensation	Term of office	Removable by whom; what grounds	Qualifications
		ning bodies in county			2 mtg./mo.			
Montana (County)	5	3 county commissioners, county surveyor, and county assessor	N/P	N/P	None, but reimbursement for expenses	N/P	N/P	Residents of county
Nebraska	9	N/P	Mayor	3/4 vote of council	None	3 years, staggered yearly	By mayor, with consent of 3/4 of council, for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause, after hearing	Shall represent in so far as possible different professions or occupations; shall hold no other municipal office
Nevada	9	Chief engineer, or surveyor or deputy, and 2 other officials one of whom may be member of governing body	Mayor	Leg.	None, expenses allowed	6 years, staggered yearly	Maj. vote of leg. body for neglect, malfeasance, or inefficiency	Same as SPA
New Hampshire	9 <sup>6</sup>	Same as SPA	Same as SPA	N/P	None	6 years, staggered <sup>9</sup>	Same as SPA	Same as SPA, except may be members of budget committee in a town or a justice of the municipal ct.
New Jersey	5-9	Mayor, city official to be appointed by mayor, member of leg., appointed by leg. (city official only if 7 or more members)	Mayor; mayor may also appoint a citizen's advisory committee, to serve at his pleasure	N/P	None	Term of official tenure for ex officio, for members, same no. of years as are members on bd., staggered yearly	Appointing officer, for cause, after hearing	No other municipal office, except that 1 may be on zoning bd. of appeals & 1 on bd. of education; no member may act on any matter in which he has direct or indirect personal interest
New Mexico	Not less than 5	Adm. officials of city may be appointed ex officio	Mayor	Leg.	N/P	2 years, staggered yearly	Mayor, with confirmation by council, for cause, after hearing	N/P
New York	5 or 7	N/P	Mayor	N/P	N/P	Term of office-holders ends with term of mayor; others, 3	Mayor, after hearing, for cause	Not more than a minority can hold other public office

TABLE I—CONTINUED

State	No. on P/C	Ex officio members	By whom appointed	By whom approved	Compensation	Term of office	Removable by whom; what grounds	Qualifications
						year terms, staggered each year by one-third		
North Carolina	3-5	N/P	Governing body	N/P	Leg. may provide	N/P	N/P	N/P
North Dakota	8	Executive officer, engineer of munic., and atty. of munic.	Executive officer	Governing body	None, but may have travelling expenses to planning conferences	5 years, staggered yearly	N/P	N/P
Ohio	7	Mayor, service director, and pres. of bd. of park commissioners	Mayor	N/P	None	6 years each, except that terms of 2 members of 1st com. shall be for 3 years	N/P	Citizens of city
	5 if commission gov't	Chairman of commission	Commission	N/P	None	6 years, except of 1st commission (staggered)		
	5 if city manager	Chairman of council; city commissioner	City manager	N/P	None	6 years, staggered		
	5 in village	Mayor, one council member chosen by council	Mayor	N/P	None	6 years, staggered		
Oklahoma (Cities over 160,000)	9	N/P	Mayor; if election to council is by wards, must be at least 2 from each ward	N/P	None	6 years, staggered yearly	Same as SPA, after hearing	Same as SPA; if election to council is by wards, then at least 2 from each ward
(All Cities)	not less than 5	N/P	Mayor	Leg.	None	3 years, staggered yearly	N/P	Citizens residing in municipality
Oregon	10	Mayor, city atty., and city engineer	Mayor	N/P	None	4 years, staggered yearly	N/P	Not more than 2 of the appointed number shall be non-residents
Pennsylvania <sup>7</sup> (1st Class)	N/P	N/P	Mayor	N/P	N/P	N/P	N/P	N/P
(2nd Class A)	9	N/P	Mayor	N/P	None	6 years, staggered 1/3 every 2 years	N/P	No more than 2 may be paid employees of city
(2nd Class)	9	N/P	Mayor	Coun-	None, ex-	6 years,	N/P	Residence in county;

TABLE I—CONTINUED

State	No. on P/C	Ex officio members	By whom appointed	By whom approved	Compensation	Term of office	Removable by whom; what grounds	Qualifications
(3rd Class)	5	N/P	Council	N/P	None	5 years, staggered yearly	N/P	no more than 2 may be paid city employees  Residence within zone of jur. of P/C; mayor and councilmen ineligible
Rhode Island <sup>8</sup>	N/P	N/P	Mayor; in towns, elected at annual mtg.	Council	N/P	N/P	N/P	
South Carolina (Cities over 34,000)	9	Mayor, city engineer, pres. bd. of pl. com., member of council chosen by it, and county supervisor when laying out streets beyond corp. limits	Mayor	N/P	None	4 years	Mayor, after hearing, for: inefficiency, neglect of duty, or malfeasance in office	Same as SPA
South Dakota	Not less than 5	Adm. officials may be appointed ex officio	Mayor	Council	N/P	2 years, staggered yearly	Mayor, with confirmation by council, for cause	N/P
Tennessee	5-10 (no. designated by legis. body)	Chief exec. officer of city, and member of legis. body chosen by legis. body	Chief exec. officer	N/P	None, unless P/C acts as zoning. Bd. of Appeals, then compensation set by leg. but as zoning Bd. of Appeals	To be provided by leg., must be arranged so that one term expires each year	N/P	N/P
Texas <sup>4</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Utah		To be provided by leg.			None, except expenses	To be provided by leg.		
Vermont	5	Mayor, or ch. of bd. of selectmen or ch. of bd. of village trustees	Mayor (cities) bd. of selectmen (tna.) village trustees (vill.)	N/P	N/P	4 years, staggered yearly	N/P	N/P
Virginia	5-7	One may be member of council; 1-3 may be adm. officers appointed by mayor	Mayor	N/P	None	4-6 years, to be provided in ord.; term of official tenure for ex officio members	Provision to be made in ord. for removal on basis of: inefficiency, neglect of duty, or malfeasance in office	Ex officio members must be in minority; same as SPA, plus must be qualified voters of municipality

TABLE I—CONTINUED

State	No. on P/C	Ex officio members	By whom appointed	By whom approved	Compensation	Term of office	Removable by whom; what grounds	Qualifications
Washington	3-12	To be provided by ord; not to exceed 1/3 of P/C	Mayor or commissioner of pub. works	Council or city commissioners	None	6 years, staggered so that fewest possible terms expire in any one year	By appointing official with approval of council or board, after hearing, for: inefficiency, neglect of duty, or malfeasance in office	N/P
West Virginia	Not less than 5	N/P	Mayor	Leg.	None	3 years, staggered yearly	N/P	Taxpayers and residents
Wisconsin	7	Mayor, city eng., pres. of pk. Bd., an alderman; if no city eng. or pk. bd.; mayor makes that many more appointments, but these offices for 1 year; city, by ord., may increase number so that bldg. commissioner or bldg. inspector may be member	Mayor; Alderman to be elected by 2/3 vote of council each April	N/P	N/P	3 years, staggered yearly	N/P	Citizens of recognized experience and qualifications
Wyoming <sup>1</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P

<sup>1</sup> No planning enabling act.

<sup>2</sup> Special statute establishes metropolitan planning commission for Fulton and DeKalb counties.

<sup>3</sup> Kentucky has 3 statutes: one for 1st class cities (Louisville), providing for joint planning commission with county; one for 2nd class cities (there are 7 of these) making planning commission mandatory; one for other cities. Except as otherwise noted, these notes refer to the last (most general) law. In 2nd class cities, 5 city members are on the planning commission, 2 county members. Of the 5 city, 2 are ex officio, others have 4 year terms staggered biannually.

<sup>4</sup> No planning enabling act, but many references in zoning and platting statutes to planning commission.

<sup>5</sup> Class 2 counties have substantially same power, but only for public recreation purposes; there is a county planning and recreation commission, but no formal master plan. First class cities same as class 2 counties.

<sup>6</sup> There are different numbers in towns and villages—5 or 7, with but 1 ex officio; shorter terms, when fewer on planning board.

<sup>7</sup> Township and borough acts are not considered here.

<sup>8</sup> Rhode Island has a special comprehensive statute for Newport, and also for state planning.



TABLE II  
PREPARATION OF THE MASTER PLAN

State	Who Prepares	Who Adopts	By what vote	Hearing	Action by Local Legislature	Filing	Who Amends	How	Adoption in Whole or Part	Criteria for Partial Plan
Standard Planning Act	P/C	P/C	Affirmative vote of 6	Yes	N/P	Certified to council & county recorder	P/C	Same as adoption	Either	Geographical or functional
Alabama	P/C	P/C	Same as SPA	Yes	N/P	Same as SPA	P/C	Same as adoption	Either	Same as SPA
Arizona (County)	P/C	P/C & County Bd. of Supervisors	Majority	Yes	Submission to County Board for consideration and action, at least one hearing; Bd may alter any part of plan; must refer alterations to P/C, but may disregard its recommendations	N/P	P/C & County Board	Same as adoption	Either	Functional divisions of the subject matter, when by P/C; N/P when by County Board
Arkansas	P/C	P/C	N/P	Yes	N/P	Certified to council; filed with city clerk & with county recorder	Council may amend or abolish	N/P	Either	N/P
California	P/C	P/C adopts M/P, which is certified to leg., in whole or part, for adoption as "official plan"	2/3 of P/C; vote of Leg.	Yes	P/C certifies to leg. for vote to adopt M/P, or any part, as official plan	Certified to leg. for vote to adopt	P/C & Leg; Leg. may not modify M/P in adopting it, without first submitting the proposed modification to P/C for a report; Leg. may make any change in M/P after adoption, but must first	Same as adoption	Either	N/P

TABLE II—CONTINUED

State	Who Prepares	Who Adopts	By what vote	Hearing	Action by Local Legislature	Filing	Who Amends	How	Adoption in Whole or Part	Criteria for Partial Plan
Colorado	P/C	P/C	2/3 of membership	Yes	Leg. must approve before M/P can be filed or recorded	Certified to leg. for approval, & then filed with county clerk & recorder	P/C	Same as adoption	Either	Geographical or functional
Connecticut	P/C	P/C	Majority	Yes	Plan effective at date set by P/C	Filing with town clerk	P/C	Same as adoption	Either	Geographical or functional
Delaware	P/C	Leg. adopts "official plan"; P/C adopts development plan	Development Plan maj. vote; official map N/P	N/P	Leg. must adopt "official plan"	Official plan filed with recorder of deeds	Leg.—official plan (by 2/3 vote if P/C not in accord) P/C - development plan	Maj. vote	N/P	N/P
Florida <sup>1</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Georgia (Gen'l. Stat.)	P/C	N/P	N/P	N/P	P/C makes recommendations to leg. for its determination	N/P	N/P	N/P	N/P	N/P
(Spec. Stat.) <sup>2</sup>	P/C	P/C	8 votes	Yes	M/P is recommendation to leg. for its determination	N/P	Leg., after referral to P/C for advice	N/P	Either	Geographical or functional
Idaho	P/C	Council	N/P	N/P	P/C only suggests coordinated plans to council	N/P	N/P	N/P	N/P	N/P

TABLE II—CONTINUED

State	Who Prepares	Who Adopts	By what vote	Hearing	Action by Local Legislature	Filing	Who Amends	How	Adoption in Whole or Part	Criteria for Partial Plan
Illinois	P/C	Council	N/P	N/P	Council must adopt	N/P	Council	P/C recommends	Either	Geographical or functional
Indiana	P/C	P/C	Majority	Yes	Leg. must adopt M/P as ordinance; if no action in 60 days, then M/P has effect of ordinance; if leg. amends or rejects, goes back to P/C; if P/C approves, then ordinance stands as passed; if P/C disapproves, then action by leg. of no effect unless re-passed by 75% vote (P/C has 45 days to act)	Certified to city council	Leg.	Same as adoption	N/P, but implication by part	N/P
Iowa	P/C	P/C & Council	2/3 P/C	Yes	Council must approve	Certified to council for approval	Council	3/4 vote if P/C disapproves change	Either	N/P
Kansas <sup>3</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Kentucky	P/C	P/C	5 votes (out of 7)	Yes	N/P	Certified to leg. body & county clerk	P/C	Same as adoption	Either	Geographical or functional
Louisiana	P/C	P/C	N/P	Yes	N/P	Filed with local leg. body & clerk of parish court	P/C	Same as adoption	Either	Geographical or functional
Maine	P/C	P/C	Majority	Yes	N/P	N/P	P/C	Same as adoption	N/P	N/P

TABLE II—CONTINUED

State	Who Prepares	Who Adopts	By what vote	Hearing	Action by Local Legislature	Filing	Who Amends	How	Adoption in Whole or Part	Criteria for Partial Plan
Maryland	P/C	P/C	at least 3 votes	Yes	N/P	certified to council & county recorder	P/C	Same as adoption	Either	Geographical or functional
Massachusetts	P/C	P/C	Majority	N/P	Official map is adopted by leg.	Official map is filed with clerk	P/C amends plan "from time to time"; map amended by leg. with hearing, upon recommendation of P/C; can vary P/C recommendation only by 2/3 vote	See previous column	N/P	N/P
Michigan	P/C	P/C	At least 6 votes	Yes	N/P	Certified to council & county register	P/C	Same as adoption	Either	Geographical or functional
Minnesota <sup>4</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Mississippi <sup>1</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Missouri (1st Class Counties)	P/C	P/C	Majority	Yes	N/P	Certified to county clerk and recorder of deeds	P/C	Same as adoption	Either	N/P
Montana <sup>5</sup> (County)	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Nebraska <sup>3</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Nevada	P/C	P/C & Leg.	N/P	By Leg. & by P/C	Leg. must adopt, but can't amend P/C recomm. without allowing P/C to report	Certified to regional P/C, county P/C, & bd of co. com.	N/P	N/P	Either	Geographical or functional
New Hampshire	P/C	P/C	Majority	N/P	N/P	Certified to council	P/C	Same as adoption	Either	Geographical or functional

TABLE II—CONTINUED

State	Who Prepares	Who Adopts	By what vote	Hearing	Action by Local Legislature	Filing	Who Amends	How	Adoption in Whole or Part	Criteria for Partial Plan
New Jersey	P/C	P/C	N/P	Yes	N/P, except that redevelopment must conform to M/P as approved by leg.	N/P	P/C	N/P	Either	N/P
New Mexico	P/C	P/C	Majority	Yes	N/P	Certified to municipal council	P/C	Same as adoption	Either	Geographical or functional
New York	P/C	P/C	N/P	Optional	N/P	Filed in P/C office, with city engineer, & with city clerk	P/C. Leg. may amend official maps re streets, parks, etc.	Same as adoption	N/P	N/P
North Carolina <sup>3</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
North Dakota	P/C	P/C & Leg.	4 votes	Yes	Leg. must adopt; must have 2/3 vote to adopt where changes not recommended by P/C	Certified to leg.	Leg.	Same as adoption	Either (in adoption by P/C); N/P (in adoption by leg.)	Geographical or functional
Ohio <sup>6</sup>	P/C	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Oklahoma (Cities over 160,000) (All Cities) <sup>7</sup>	P/C	P/C	Majority	Yes	N/P	Certified to council	P/C	Same as adoption	Either	Geographical or functional
Oregon <sup>7</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Pennsylvania (1st Class) <sup>8</sup>	P/C	Leg.	N/P	N/P	Leg. adopts as it chooses	N/P	P/C recommends amendments to leg.	N/P	N/P, but implication by part	N/P

TABLE II—CONTINUED

State	Who Prepares	Who Adopts	By what vote	Hearing	Action by Local Legislature	Filing	Who Amends	How	Adoption in Whole or Part	Criteria for Partial Plan
(2nd Class A)	P/C	Leg.	N/P	N/P	Leg. adopts as it chooses	N/P	P/C recommends amendments to leg.	N/P	N/P, but implication by part	N/P
(2nd Class)	P/C	P/C	N/P	N/P	N/P	N/P	P/C	N/P	Either	Either
(3rd Class)	P/C	Leg.	N/P	N/P	Same as 1st Class	N/P	P/C recommends amendments to leg.	N/P	N/P	N/P
Rhode Island <sup>9</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
South Carolina (Cities over 34,000)	P/C	P/C	Majority	Yes	N/P	Certified to council & all leg. & adm. agencies affected	P/C	Same as adoption	Either	Geographical, or functional
South Dakota	P/C	P/C	Majority	Yes	N/P	Certified to council	P/C	Same as adoption	Either	Functional
Tennessee	P/C	P/C	Majority of all members	N/P	N/P	Certified to leg.	P/C	Same as adoption	Either	Functional subdivision of subject matter
Texas <sup>10</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Utah	P/C	P/C & Leg.	N/P	N/P	Leg. must adopt	Certified to Leg.	N/P	N/P	N/P	N/P
Vermont	P/C	P/C & voters	N/P	N/P	Approval by voters	N/P	Same as adoption	Same as adoption	N/P	N/P
Virginia	P/C	P/C	Majority	Yes	N/P	Certified to council & clerk of ct. where deeds recorded	P/C	Same as adoption	Either	Geographical, topographical, or functional

TABLE II—CONTINUED

State	Who Prepares	Who Adopts	By what vote	Hearing	Action by Local Legislature	Filing	Who Amends	How	Adoption in Whole or Part	Criteria for Partial Plan
Washington	P/C	Leg.	N/P	Yes	Leg. adopts upon recommendation by P/C	Certified to munic. clerk filed with county auditor	Leg. with concurrence or upon recommendation of P/C	N/P	Either	Geographical or political subdivisions; or functional subdivisions of subject matter
West Virginia <sup>11</sup>	P/C	Leg.	N/P	N/P	Submitted to leg. for consideration & action	N/P	N/P	N/P	Either	N/P
Wisconsin	P/C	P/C	Majority	N/P	N/P	Certified to council	P/C	Same as adoption	Either	Functional
Wyoming <sup>1</sup>	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P

1 No planning enabling act.  
 2 Special statute establishes planning commission for Fulton and DeKalb counties.  
 3 No formal provision for master plan.  
 4 No formal provision for master plan; yet city authorized to carry on "city planning activities."  
 5 No formal provision for master plan; planning commission makes and adopts "development pattern" for a planning and zoning district; for details see Chart IV.  
 6 These plans are not formal, i.e., no formal approval, no formal hearing, no set form, etc. They are divided into 2 categories: (1) zoning recommendations, and (2) recommendations for public developments, utilities, streets, etc.  
 7 No formal provision for master plan; planning commission may make plans and recommendations to city and others.  
 8 Cities of 1st class and 2nd-A and 3rd class have no express power to adopt a general plan.  
 9 Planning board to report annually to council, recommending plans and estimates of development, giving cost estimates.  
 10 No enabling statute for creating master plan, but planning law refers to "general plan of said city, and its streets, alleys, parks, playgrounds, and public utility facilities . . ." also "general plan for the extension of such city and of its roads, streets . . ."  
 11 Plan for development of municipality has no effect aside from fact that plan is submitted to legislature.







TABLE III—CONTINUED

State	Title	Purpose	Components	Based Upon	MAY PROVIDE FOR THE FOLLOWING SUBJECTS (explicitly): <sup>1</sup>													
					Land Use	Size & Use of Bldgs.	Pop. density <sup>2</sup>	Streets Etc.	Public Utilities	Public Structures	Recreation Areas	Conservation & Reclamation <sup>3</sup>	Slum Clearance <sup>3</sup>	Urban Redevelop. <sup>3</sup>	Public Housing <sup>3</sup>	Public Works	Progress	Government Expenditures
Idaho	Coordinated plans	Public health, morals, safety, and welfare	Suggestions in the form of coordinated plans, including zoning	N/P	x	x	x	x	x	x	x	x	x	x				
Illinois	Comprehensive plan of public improvements; official plan upon adoption by leg.	Looking to the present and future development; provide for health, safety, comfort, and convenience	Comprehensive plan	N/P	x	x	x	x	x	x	x	x	x	x				
Indiana	M/P; complete M/P or any of its parts, such as M/P of land use and zoning, and including ordinances deemed necessary to implement such complete M/P or part	Promotion of public health, safety, morals, convenience, order, general welfare . . . efficiency and economy in the process of development	May include: (1) careful and comprehensive surveys and studies (2) maps, plats, charts and descriptive material of existing conditions (3) reports, recommendations (4) long-range program of public works (5) long-range financial program	N/P	x	x	x	x	x	x	x	x	x	x	x	x		x
Iowa	Comprehensive plan; city plan	Substantially same as SPA	Comprehensive plan	Same as SPA	x													
Kansas <sup>6</sup>	N/P	N/P	N/P	N/P														
Kentucky	M/P	Same as SPA	Same as SPA	Substantially same as SPA	x	x	x	x	x	x	x	x	x	x	x			
Louisiana	M/P	Same as SPA, plus "vehicular parking" as one of the purposes in view	Same as SPA	Substantially same as SPA	x	x	x	x	x	x	x	x	x	x	x	x		x
Maine	Comprehensive M/P	Health, safety, general welfare	May include zone plan and plat regulation plan	N/P	x	x	x	x	x	x	x	x	x	x	x			
Maryland	M/P	Same as SPA	Same as SPA, plus specifying that resolution shall refer expressly to maps and descriptive and other matters	Same as SPA	x	x	x	x	x	x	x	x	x	x	x <sup>8</sup>			
Massachusetts	Master or study plan	Official map is prepared to conserve and promote health, safety, and welfare	Master or study plan of city or parts; official map is separate	N/P	x	x	x	x	x	x	x	x	x	x				

TABLE III—CONTINUED

State	Title	Purpose	Components	Based Upon	May Provide for the Following Subjects (explicitly): <sup>1</sup>													
					Land Use	Size & Use of Bldgs.	Top. density?	Streets Etc.	Public Utilities	Public Structures	Recreation Areas	Conservation & Reclamation?	Blum Clearances	Urban Redevel.?	Public Housing?	Public Works	Government Expenditures	
Michigan	M/P	Same as SPA	Same as SPA	Same as SPA	X	X	X	X	X	X	X	X	X	X	X			
Minnesota <sup>o</sup>	N/P	N/P	N/P	N/P														
Mississippi <sup>o</sup>	N/P	N/P	N/P	N/P														
Missouri (1st Class Counties)	Official M/P	"For the purpose of bringing about coordinated physical development in accordance with present and future needs"	May include studies and recommendations	N/P					X	X	X	X	X	X	X			
Montana <sup>o</sup> (County)	N/P	N/P	N/P	N/P														
Nebraska <sup>o</sup>	N/P	N/P	N/P	N/P														
Nevada	M/P	Promote health, safety, morals, general welfare	Such of the following as are appropriate: (1) conservation plan {accompanying maps, charts, (2) land use plan {reports (3) recreation plan {reports (4) streets and highways plan (5) transportation plan (6) transit plan (7) public services and facilities (8) public buildings (9) community design (10) housing (11) economic plan (12) other plans related to physical development	N/P	X	X	X	X	X	X	X	X	X	X	X			X
New Hampshire	M/P	Same as SPA	Same as SPA	Substantially same as SPA	X	X	X	X	X	X	X	X	X	X	X			
New Jersey	M/P	Substantially same as SPA; except add after "in the process of development" the words:	Generally comprises land use, circulation and a report presenting the ob-	P/C shall give due consideration to the probable ability of the munic-	X	X	X	X	X	X	X	X	X	X	X			



TABLE III—CONTINUED

State	Title	Purpose	Components	Based Upon	MAY PROVIDE FOR THE FOLLOWING SUBJECTS (explicitly): <sup>1</sup>													
					Land Use	Size & Use of Bldgs.	Top. density <sup>2</sup>	Streets Etc.	Public Utilities	Public Structures	Recreation Areas	Conservation & Reclamation <sup>3</sup>	Slum Clearance <sup>3</sup>	Urban Redevel. <sup>3</sup>	Public Housing <sup>3</sup>	Public Works	Progress	Government Expenditures
Ohio	Plans or maps	Substantially same as SPA	Maps or plans	N/P	x	x	x	x	x	x	x	x	x					
Alabama (Cities over 100,000) (All Cities <sup>4</sup> )	M/P	Substantially same as SPA, minus "other public requirements"	Same as SPA	Substantially same as SPA	x	x	x	x	x	x	x	x	x					
Oregon <sup>10</sup>	N/P	N/P	N/P	N/P														
Pennsylvania (1st Class)	Maps and recommendations: "city plan" mentioned, in passing, as one of recommendations on the maps	Provide for present conditions and future growth, etc.	Map or maps of city; recommendations	Regard to present conditions and future needs and growth of the city, location of streets, bldgs., etc.	x	x	x	x	x	x	x	x	x					
(2nd Class A)	Same as 1st class	Provide for present conditions and future growth, etc.	Map or maps of city; recommendations	Regard to present conditions and future needs and growth of the city, location of streets, bldgs., etc.	x	x	x	x	x	x	x	x	x					
(2nd Class)	M/P	Same as SPA	Same as SPA	Same as SPA														
(3rd Class)	Same as 1st Class	Same as 1st Class	Same as 1st Class	Same as 1st Class	x	x	x	x	x	x	x	x	x					
Rhode Island <sup>11</sup>	N/P	N/P	N/P	N/P														
South Carolina (Cities over 34,000)	M/P	Same as SPA	(a) Maps, charts, etc. (b) recommendations for development specifically; (for Sumter) (1) location, character and extent of streets, parks, airports, etc. (2) location and extent of public utilities & terminals (3) removal, relocation, alteration of foregoing	Same as SPA	x	x	x	x	x	x	x	x	x					



TABLE III—CONTINUED

State	Title	Purpose	Components	Based Upon	MAY PROVIDE FOR THE FOLLOWING SUBJECTS (explicitly): <sup>1</sup>												
					Land Use	Size & Use of Bldgs.	Pop. density <sup>2</sup>	Streets Etc.	Public Utilities	Public Structures	Recreation Areas	Conservation & Reclamation <sup>3</sup>	Stim. Clearance <sup>4</sup>	Urban Redevel. <sup>5</sup>	Public Housing <sup>6</sup>	Public Works	Government Expenditures
West Virginia	A plan for development	fire, overcrowding; coordinated development of un-built areas; to encourage formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty, etc.															
Wisconsin	M/P	Same as New Mexico	Recommendations for new streets, bridges, parks, parkways, play-grounds, & any other public areas or public improvements	N/P													
Wyoming <sup>5</sup>	N/P	N/P	Same as SPA N/P	N/P N/P													

<sup>1</sup> It is frequently a difficult question of interpretation as to what it is the master plan is making plans for.

<sup>2</sup> Often only implicit under "zoning" or "land use."

<sup>3</sup> Often related to the master plan in other, separate acts.

<sup>4</sup> Sites only.

<sup>5</sup> No planning enabling act.

<sup>6</sup> No formal master plan.

<sup>7</sup> 1st Class cities only.

<sup>8</sup> Expressly excludes power over transmission lines owned in Baltimore County.

<sup>9</sup> Total effect is zoning, but there is a "development pattern" for "physical and economic development of zoning district."

<sup>10</sup> No formal master plan, but planning commission can make plans and recommendations for streets, zoning, relief of traffic congestion, future growth and beautification of city, regulation of industrial or economic needs, location of public and private buildings.

<sup>11</sup> Planning board to report annually to council, recommending plans and schemes of development, giving costs.

<sup>12</sup> See note 10 on Chart II.

<sup>13</sup> Planning commission makes plans for future development; recommended zoning for height, ground area, and use.

TABLE IV  
LEGAL IMPACT OF MASTER PLAN ON PRIVATE DEVELOPER

State	Binding Effect of M/P on P/C, in General	ZONING					
		Who Prepares Zoning Plan	Relationship to M/P	Who Adopts	Hearing	Who Amends	Hearing
Standard Planning Act	Platting, upon approval by P/C, constitutes an addition to or amendment of M/P	P/C receives powers heretofore granted to Z/C; may allow existing Z/C to finish project—not exceeding 6 months	Zone plan constitutes part of M/P	Assumes prior zoning enabling act	Assumes prior zoning enabling act	Assumes prior zoning enabling act	Assumes prior zoning enabling act
Alabama	Same as SPA	P/C	Same as SPA	Leg., upon recommendation of P/C	Yes	(1) Same as adoption (2) P/C may agree with application for plat as to any restrictions that do not violate the zoning law; such restrictions must be stated on the plat prior to approval & recording, & upon approval and recording become, in effect, a part of the zoning ordinance	Yes
Arizona (County)	Upon adoption by County Board of Supervisors, plan becomes the official guide for development of the area of jurisdiction, & amendments may be made only as provided by statute	P/C	"General zoning regulations" constitute a part of M/P	County Board, & then local referendum of record owners of real property	N/P	Board acts upon recommendation of P/C, which may be made on own motion of P/C or by written petition of property owners; board vote must be unanimous if protest made by 20% of owners of property	Yes
Arkansas	N/P	P/C	M/P may include a zoning plan	Council	Yes	Council may amend or abolish M/P	N/P



TABLE IV  
LEGAL IMPACT OF MASTER PLAN ON PRIVATE DEVELOPER

SUBDIVISION CONTROLS				STREET CONTROLS				
Must P/C Adopt Regs. Before Exercising Subdiv. Approval	Hearing on Specific Application	P/C Approval Necessary	Other Approval Necessary or Possible	Improvements in Unaccepted Streets	Provision Re Access of Bldg. to Streets	Provision Re Bldg. in Mapped Streets	Hearing Re Mapped Streets	Other Approval Necessary or Possible Re Mapped Streets
Yes	Yes	Yes	N/P	Street shall not be accepted or improved except by majority of council, with approval of P/C, or by 2/3 of council, over P/C disapproval, if street does not correspond with official master plan, subdiv. plat approved by P/C, or area plat adopted by P/C	After adoption of major street plan for an area, no building is allowed unless access street is accepted, or corresponds with street shown on official master plan, subdiv. plat approved by P/C, or area plat adopted by P/C	(1) After adoption of major street plan for an area, P/C may adopt area plats showing mapped streets; owner who builds in a mapped street during the period for which the plat is reserved by council, cannot recover compensation if street is constructed; (2) P/C & owner may modify the area plat by subsequent agreement	Yes	(1) Council may approve and adopt or may reject the area plat; or may modify it with approval of P/C, or without such approval if voted by 2/3 of council; (2) the agreement must be approved by the council, at which time it replaces original area plat; (3) council may abandon a reservation at any time
N/P	Yes	Yes	N/P	Same as SPA	Same as SPA	Same as SPA	Yes	Same as SPA
N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Yes	N/P	Yes	N/P	N/P	Council may regulate or prohibit the granting of permits for bldgs. on lots not located on streets shown on the master street plan	Council, on recommendation of P/C, establishes, regulates, and limits bldg. or set-back lines on major highways shown on "plan for a major street system" adopted by P/C	N/P	Bd. of Adjustment may vary these regulations in case of unwarranted hardship

TABLE IV—CONTINUED

State	Binding Effect of M/P on P/C, in General	ZONING					
		Who Prepares Zoning Plan	Relationship to M/P	Who Adopts	Hearing	Who Amends	Hearing
California <sup>1</sup>	P/C can only recommend that leg. amend M/P; P/C can amend M/P (prior to adoption by leg.) by same procedure by which P/C adopts plan; precise plans are based on M/P	Apparently anticipates preparation by P/C, although leg. can adopt a zoning plan on its own initiative, in which case refers to P/C for hearing & report	As a precise plan, zoning should be based upon M/P, at least if zoning is prepared by P/C; but adoption of M/P is not necessary to initiation or adoption of zoning	Leg.	If recommended by P/C, yes, if not, N/P	Same as adoption	Same as adoption
Colorado	Same as SPA	P/C	Same as SPA	Leg., upon recommendation of P/C	Yes	Same as SPA (1) and (2), but must be approved by leg.	(1) Yes (2) No
Connecticut	Subdiv. regs. must provide that streets in proposed subdiv. must be in harmony with plan of development	Z/C, which may but need not be P/C	Zoning regs. must be in accordance with a comprehensive plan	Z/C, in manner determined by Z/C	Yes	As determined by Z/C	Yes
Delaware	Such M/P shall be a public record, but its purpose and effect shall be solely as aid to P/C in performance of duties	Z/C	N/P	Leg.	Yes	Leg.; must be by 3/4 vote if protest from owners of 20% of prop. within 100'	Yes
Florida <sup>2</sup>	N/P	Z/C (provision that P/C may act as Z/C)	N/P	Governing body, in accord with charter	Yes	Leg.; must be by 3/4 vote if protest from owners of 20% of prop. within 500'	Yes
Georgia (Gen'l Stat.)	N/P	P/C	Zoning regulations must be in accordance with "a comprehensive plan"	P/C & Leg. P/C prepares & certifies to leg.; no change by leg. without referral to P/C, but leg. not bound by P/C	Yes	Leg., after referral to P/C for advice, which is not binding on leg.	Yes
Idaho	N/P	P/C	Zoning is one of recommendations in M/P	Leg.	Yes	Leg.; if 20% protest within 300'; must be by 3/4 vote of members	Yes
Illinois	P/C can only suggest changes in official plan	Z/C (may be P/C) (appointed by mayor, confirmed by council)	Zoning may be part of recommendation of P/C	Leg., after recommendations of Z/C which are not binding	Yes	Leg.	Yes

TABLE IV—CONTINUED

SUBDIVISION CONTROLS				STREET CONTROLS				
Must P/C Adopt Regs. Before Exercising Subdiv. Approval	Hearing on Specific Application	P/C Approval Necessary	Other Approval Necessary or Possible	Improvements in Unaccepted Streets	Provision Re Access of Bldg. to Streets	Provision Re Bldg. in Mapped Streets	Hearing Re Mapped Streets	Other Approval Necessary or Possible Re Mapped Streets
P/C has such control over subdivs. as granted by regulations adopted by leg.	N/P	N/P	N/P	Even if P/C disapproves, street can be accepted or improved by majority vote of leg.	N/P	N/P	N/P	N/P
P/C must first adopt regulations	Yes	P/C jurisdiction over plats is exclusive; upon adoption of major street plan by P/C, & recording, no subdiv. without approval of P/C	N/P	Same as SPA	Same as SPA	Same as SPA	Same as SPA	Same as SPA
Yes	Yes	Yes	N/P	Street shall not be accepted or improved except after referral to P/C; P/C can be overruled by 2/3 of council or by maj. of town meeting	N/P	No bldg. without P/C approval of plat	Yes	N/P
In New Castle county, P/C must approve the plats	Yes	Yes	N/P	N/P	N/P	N/P	N/P	N/P
N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
P/C bound by regs. adopted by leg., upon advice of P/C	Yes	P/C does not approve, but sends plat, with a recommendation, to leg. for determination	N/P	N/P	N/P	N/P	N/P	N/P
N/P	N/P	P/C makes suggestions to council re platting or subdiv.	N/P	N/P	N/P	N/P	N/P	N/P
N/P	N/P	N/P	Streets and public grounds in subdiv. must	N/P	Plat must conform with M/P re access	N/P	N/P	N/P

TABLE IV—CONTINUED

State	Binding Effect of M/P on P/C, in General	ZONING					
		Who Prepares Zoning Plan	Relationship to M/P	Who Adopts	Hearing	Who Amends	Hearing
Indiana	After adoption of "the M/P and ordinance" govt. agencies shall be guided by and give consideration to the general policy and pattern of development set out in M/P	P/C	N/P, but zoning "an integral part of the planning of areas"; M/P may include material on zoning	Leg., after P/C recommendation; but ord. may give P/C power to make reasonable zoning changes in new plats, provided that P/C can't allow greater pop. density or cover of land	Yes	Unless P/C makes proposal, referred to P/C; if P/C disapproves must be by 3/4 vote of leg.	Yes
Iowa	N/P	Z/C (may be P/C)	None stated, but zoning must be based on "a comprehensive plan"	Leg. upon recommendations of Z/C	Yes	Same as adoption	Yes
Kansas	N/P	P/C	N/P	Leg.	Yes	N/P	N/P
Kentucky	N/P	P/C	Zoning recommendation in M/P	Leg.	Yes	If 35% protest within 150', must be by 3/4 vote	No specific provision, but probably "Yes" under adoption provision
Louisiana	N/P	P/C	Zoning plan is part of M/P	Leg.	Yes	Leg., by 3/5 vote if 20% protest within 200'	Yes
Maine	In report & recommendations on plat applications, P/C must determine if plat fits with M/P	P/C	Zoning plan is part of M/P	Leg., but if it varies from P/C recommendations must be by 4/5 vote	Yes	N/P	Yes
Maryland	N/P	P/C	Zoning plan is part of M/P	Leg.	Yes	Leg.; 2/3 vote if 20% protest within 175'	Yes
Massachusetts	Approved subdiv. becomes part of official map	Leg. & P/C	Zoning may be part of M/P	Leg.	Yes	Leg. by a 2/3 vote after report from P/C, which holds hearings; 3/4 vote required if	Yes

TABLE IV—CONTINUED

SUBDIVISION CONTROLS				STREET CONTROLS				
Must P/C Adopt Regs. Before Exercising Subdiv. Approval	Hearing on Specific Application	P/C Approval Necessary	Other Approval Necessary or Possible	Improvements in Unaccepted Streets	Provision Re Access of Bldg. to Streets	Provision Re Bldg. in Mapped Streets	Hearing Re Mapped Streets	Other Approval Necessary or Possible Re Mapped Streets
			conform with official plan					
No formal regs, but P/C may control: (1) street layout (2) water & utility provisions (3) school provisions (4) municipal services (5) recreational facilities	Yes	Yes	P/C shall have exclusive control	N/P	N/P	N/P	N/P	N/P
N/P	N/P	All plats must be submitted to P/C for recommendations before adoption by council; final approval by council	Must go to P/C for recommendations before council approves	Must go to P/C for recommendations before council approves	N/P	N/P	N/P	N/P
Yes	N/P	P/C acts on application & makes its recommendations to leg. which must act	Leg.	N/P	N/P	N/P	N/P	N/P
Yes	Yes	Yes	Person aggrieved may appeal to circuit court of county	Same as SPA	Same as SPA	Same as SPA	N/P	N/P
Yes	Yes	Yes	N/P	Same as SPA	Same as SPA	N/P	N/P	N/P
P/C & city engineer to report to leg. for adoption	Yes	Yes	4/5 vote of leg.	P/C can be overridden by 4/5 leg. vote	No subdiv. requiring access until plat approved	No bldg. unless by variance by board of appeals	N/P	Board of appeals may grant variance
Platting regs. adopted by leg.	N/P	Yes	N/P	Substantially same as SPA	No bldg. is allowed unless access street is on official map	No permit for bldg. in bed of mapped streets	Yes	Bd. of zoning appeals may give variance
Yes	Yes	Yes	N/P	No acceptance or improvement of way, unless appears	No bldg. permit unless way giving access appears	Towns may prevent bldg. within street lines, but must	No	N/P

TABLE IV—CONTINUED

State	Binding Effect of M/P on P/C, in General	ZONING					
		Who Prepares Zoning Plan	Relationship to M/P	Who Adopts	Hearing	Who Amends	Hearing
						20% protest, within 300'	
Michigan	Same as SPA	P/C	Zoning is part of M/P	Zoning passed upon first by bd. of supervisors, then by state P/C, then by local election	Yes	Same as SPA (1) and (2)	(1) Yes (2) No
Minnesota	N/P	P/C in 1st class city	N/P	Leg.	Yes	Leg. by 2/3 vote	Yes
		N/P	N/P	3rd, 4th class, leg.; if protest by 10% of freeholders, must have election	N/P	2/3 vote of leg.	
		N/P	N/P	2nd class city, leg.	N/P	2nd class city, leg. by 2/3 vote	N/P
Mississippi <sup>2</sup>	N/P	City engineering dept. or advisory committee of citizens	N/P	Leg.	Yes	Leg.; 2/3 vote if 20% protest, within 160'	Yes
Missouri] (1st Class Counties)	N/P	P/C	N/P	Leg.	Yes	Leg.	No specific provision, but probably "Yes" under adoption provision
(Cities)	N/P	Z/C or P/C	N/P	Leg.	Yes	Leg.; 3/4 vote if 10% protest, within 185'	Yes
Montana (County)	N/P	P/C	Zoning seems to be the only function of P/C	P/C for a district (not less than 1 sq. mi) after petition by 60% of freeholders; P/C adopts by majority vote	Yes	N/P	N/P
Nebraska	N/P	Z/C or P/C		Leg.	Yes	Leg.; 3/4 vote if 20% protest within 100'	Yes
		P/C in metro. class city	Must have "city plan"			5/7 in metro. class city	

TABLE IV—CONTINUED

SUBDIVISION CONTROLS				STREET CONTROLS				
Must P/C Adopt Regs. Before Exercising Subdiv. Approval	Hearing on Specific Application	P/C Approval Necessary	Other Approval Necessary or Possible	Improvements in Unaccepted Streets	Provision Re Access of Bldg. to Streets	Provision Re Bldg. in Mapped Streets	Hearing Re Mapped Streets	Other Approval Necessary or Possible Re Mapped Streets
				in subdiv. approved by P/C, or in official map, except by 2/3 vote of leg.	in approved subdiv. plat or in official map	pay damages for injury to property		
Yes	Yes	Yes	N/P	N/P	N/P	After adoption of M/P, P/C prepares and certifies to leg. precise plans for street extensions or improvements; leg. can provide that no bldg. take place in these proposed improvement areas	Yes	Provision for bd. of appeals for hardship cases
1st class city may delegate to P/C the adoption of regs.	Yes, in 1st class city	Leg. may prescribe regs.; no P/C approval needed except in 1st class cities	N/P	Can be authorized by majority of leg. with P/C approval, or by 2/3 leg. without P/C approval	No. bldg. allowed unless access street accepted in 1st class cities	No permit for bldg. in bed of mapped streets	Yes	Board of zoning appeals may give variance
N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Yes	N/P	If P/C does not approve, leg. may, stating reasons	Leg.	N/P	N/P	P/C may, by order, prohibit bldg.	N/P	Bd. of zoning adjustment may overrule P/C for hardship
		Bd of pub. works must approve plats (evidently for grading of streets, etc.; only)						
N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
N/P	N/P	N/P	N/P	N/P	N/P	N/P, except where plat recorded; plat acts as deed in fee simple in re	N/P	N/P

TABLE IV—CONTINUED

State	Binding Effect of M/P on P/C, in General	ZONING					
		Who Prepares Zoning Plan	Relationship to M/P	Who Adopts	Hearing	Who Amends	Hearing
		N/P for primary class city	N/P	N/P	N/P	N/P	N/P
Nevada	Platting regs. may only cover street & drainage, unless ord. on platting; P/C probably also bound	N/P	N/P	Leg.	Yes	N/P	Yes
New Hampshire	P/C may use discretion in approving plats	Same as SPA	Same as SPA	Leg.	Yes	Leg.; by 3/4 vote if 20% protest, within 100'	Yes
New Jersey <sup>3</sup>	P/C may require that subdiv. conform with M/P; subdiv. must conform to official map	Z/C or P/C (wherever there is P/C, it shall act as Z/C)	Zoning recommendations may be part of M/P	Leg., after reports & hearings by P/C	Yes	Leg., but only by 2/3 if disapproved by P/C, or if 20% protest, 100'	N/P
New Mexico	Same as SPA	Z/C; P/C or leg.	N/P	Leg.	Yes	Leg. by 3/4 vote if 20% protest, within 100'	Yes
New York	P/C must require that subdiv. streets conform to official map, and properly relate to M/P	Leg. & P/C	Zoning may be part of M/P	Leg.	N/P	Leg.; by 3/4 vote if 20% protest, within 100'; when approving plat, P/C can make reasonable modifications of zoning law, (within limitations prescribed by leg.) except that pop. density cannot be increased	Yes
North Carolina	N/P	Z/C or P/C	N/P	Leg.	Yes	Leg.; 3/4 vote if 20% protest, within 100'	Yes
North Dakota	In considering plat, P/C may take into account character of development of area	Z/C or P/C	N/P	Leg.	Yes	Leg.; 3/4 vote if 20% protest, within 150'	Yes
Ohio	N/P	P/C	N/P	Leg., when plan is certified to it by P/C; if it differs from report	Yes	Leg., but submit to P/C for approval or disapproval; 3/4 vote	N/P



TABLE IV—CONTINUED

SUBDIVISION CONTROLS				STREET CONTROLS				
Must P/C Adopt Regs. Before Exercising Subdiv. Approval	Hearing on Specific Application	P/C Approval Necessary	Other Approval Necessary or Possible	Improvements in Unaccepted Streets	Provision Re Access of Bldg. to Streets	Provision Re Bldg. in Mapped Streets	Hearing Re Mapped Streets	Other Approval Necessary or Possible Re Mapped Streets
						streets or charitable, religious, educational institutions		
Yes	N/P	Yes	Governing body may overrule P/C by maj. vote if subdivider dissatisfied	N/P	N/P	N/P, except that title passes to city when plat approved	N/P	N/P
Yes	Yes	N/P	N/P	Same as SPA	Same as SPA	Leg. may provide by ord. that no such permits allowed	N/P	Board of adjustment can grant variance
Contingent upon regs. adopted by eg.; P/C may require that subdiv. conform to M/P; must conform to official map	Yes	Plats approved by local leg. or P/C if leg. so prescribes	Subsequent approval of leg. may or may not be required; appeal may always be taken to leg., which may affirm or reverse by a majority vote	N/P	No bldg. without access street appearing on official map, or approved on plat prior to passage of enabling act	No bldg. in bed of streets or drainage rt. of way, etc., on official map; if P/C has adopted M/P, local legislature must refer official map on amendment thereof to P/C for its recommendation (which is purely advisory)	Yes	Board of appeals may grant variance
Yes	Yes	N/P	N/P	Same as SPA	N/P	Upon approval of plats, city gets title to street area	N/P	N/P
Yes	N/P	Yes; regardless of M/P, no plat showing new street can be filed without approval of P/C	N/P	No improvements in any street until placed on official map or plan	No permit for bldg. unless P/C approves access streets, even though placed on official map or plan, as "suitably improved"	No bldg. in streets shown on official map or plan	N/P	Board of appeals may grant variance
N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Yes	Yes	Yes	N/P	Same as SPA	Same as SPA	N/P	N/P	N/P
Yes	N/P	If P/C adopts a street plan and open space	N/P	N/P	N/P	Plat recording vests title of land in municipi-	N/P	N/P

TABLE IV—CONTINUED

State	Binding Effect of M/P on P/C, in General	ZONING					
		Who Prepares Zoning Plan	Relationship to M/P	Who Adopts	Hearing	Who Amends	Hearing
				submitted by P/C, need 3/4 vote of full membership		needed if disapproval	
Oklahoma (Cities over 160,000)	N/P	P/C or Z/C	Same as SPA	Leg.	Yes	Leg., 3/4 vote if 20% protest, abutting	Yes
(All Cities)	N/P	P/C or Z/C	No M/P	Leg.	Yes	Leg., 3/4 vote if 20% protest, abutting	Yes
Oregon	N/P	P/C	N/P	Leg.	Yes	N/P	N/P
Pennsylvania (1st Class)	N/P	Z/C	N/P	Council, by approval of Z/C regulations	N/P	N/P	N/P
(2nd Class A)	N/P	P/C	N/P	Council, after reports & hearings by P/C	Yes	Council, by 3/4 vote if protest	Yes
(2nd Class)	Plat approved by P/C becomes amendment to M/P	P/C	N/P	Council, after reports and hearings by P/C	Yes	Leg. on recommendation of P/C; 3/4 vote if 20% protest, within 100'	Yes
(3rd Class)	N/P	Z/C (may be P/C)	N/P	Council, after reports and hearings by Z/C	Yes	Council after hearings	Yes
Rhode Island	N/P	Committee or commission authorized by council	N/P	Leg.	Yes	Leg.; 3/5 vote if 20% protest—adjacent, if mayor approves; when mayor doesn't approve, by such margin as is required in case of ords.	Yes
South Carolina (Cities over 34,000)	N/P	Z/C or P/C <sup>a</sup>	Same as SPA	Leg.	Yes	Leg.; 3/4 vote if 20% protest, adjacent	Yes

TABLE IV—CONTINUED

SUBDIVISION CONTROLS				STREET CONTROLS				
Must P/C Adopt Regs. Before Exercising Subdiv. Approval	Hearing on Specific Application	P/C Approval Necessary	Other Approval Necessary or Possible	Improvements in Unaccepted Streets	Provision Re Access of Bldg. to Streets	Provision Re Bldg. in Mapped Streets	Hearing Re Mapped Streets	Other Approval Necessary or Possible Re Mapped Streets
		plan, then its approval necessary on plat				pality of area proposed for streets, alleys, ways, commons, or other public uses		
Yes	Yes	N/P	N/P	Same as SPA	Same as SPA	Same as SPA, except omission of sanction of no compensation	N/P	Same as SPA
N/P	N/P	See next column	Leg. must submit proposed plats to P/C for approval or rejection before leg. takes action	N/P	N/P	N/P	N/P	N/P
Yes	N/P	P/C must approve plats	Under another stat. city engineer must approve plats for street plan, taxes having been paid	N/P	N/P	N/P	N/P	N/P
N/P, except that P/C can make recommendations to private citizens re improvements, etc.	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
N/P	N/P	Yes	N/P	N/P	N/P	N/P	N/P	N/P
Yes	N/P	Yes	N/P	Same as SPA	Same as SPA	Same as SPA	N/P	Same as SPA
N/P	N/P	Yes	N/P	N/P	N/P	N/P	N/P	N/P
N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Yes	Yes	N/P	N/P	Same as SPA	N/P	Same as SPA, except omission of sanction of no compensation	N/P	Same as SPA

TABLE IV—CONTINUED

State	Binding Effect of M/P on P/C, in General	ZONING					
		Who Prepares Zoning Plan	Relationship to M/P	Who Adopts	Hearing	Who Amends	Hearing
South Dakota	N/P	P/C	Same as SPA	Leg., unless protest of 40% of aggregate lots included plus 150'—then not effective as to that zone	Yes	Leg., unless protest of 40% of aggregate lots included plus 150'—then no amendment possible; leg. may require petition of up to 60% of those who have protest right	Yes
Tennessee	N/P	P/C	Same as SPA	Leg.	Yes	Leg., but must first be submitted and approved by P/C; if disapproved, then adoption by majority of the full membership necessary	N/P
Texas	If there is a general plan, and subdiv. plats conform to it, then P/C or leg., as case may be, must endorse their approval	Z/C; where P/C exists it may be appointed Z/C	N/P	Leg., but not until it receives first report from Z/C	Yes	Leg., but 3/4 vote needed if protest by owners of 20% of prop. within 200'	Yes
Utah	N/P	"Leg. may appoint" a planning commission <sup>23</sup>	N/P	Leg.; departure from recommendation must be submitted to P/C for consideration & recommendation	Yes	Leg.; must be submitted first to P/C for recommendation	Yes
Vermont	N/P	N/P, except P/C may recommend zoning ords.	N/P, except that P/C may recommend zoning ords.	Voters, in town meeting	Yes	Leg.; but if 20% protest, by unanimous vote; leg. may submit amend. to voters for advisory approval	Yes
Virginia	N/P	P/C	Same as SPA	Leg.	Yes	Leg.; 3/4 vote if 20% protest, adjacent; 300' if cities adjoin counties over 1000 sq. mi.	Yes
Washington	Plat must be approved if adequate provision for streets,	P/C	N/P	Leg. upon P/C recommendations	N/P	Leg. with recommendation or concurrence of P/C	N/P

TABLE IV—CONTINUED

SUBDIVISION CONTROLS				STREET CONTROLS				
Must P/C Adopt Regs. Before Exercising Subdiv. Approval	Hearing on Specific Application	P/C Approval Necessary	Other Approval Necessary or Possible	Improvements in Unaccepted Streets	Provision Re Access of Bldg. to Streets	Provision Re Bldg. in Mapped Streets	Hearing Re Mapped Streets	Other Approval Necessary or Possible Re Mapped Streets
Regs. adopted by council after recommendation by P/C	Yes	On specific application council, not P/C, has power to act; but must refer to P/C first	Council	Same as SPA	N/P	N/P	N/P	N/P
Yes	Yes	Yes	N/P	No improvement unless approval of P/C, or by majority vote of full membership over P/C disapproval	No bldg. permit unless street giving access to lot is accepted	N/P	N/P	N/P
Platting regs.; adopted by leg.	N/P	Yes, if no P/C, then approval by leg.; if there are regs., approval required if regs. complied with	N/P	N/P	N/P	N/P	N/P	N/P
P/C may prepare regs. to be adopted by leg.	N/P	After P/C adopts major street plan, legis. approval needed, as well as that of P/C	Leg.	Leg. (or other agency involved) may overrule P/C by majority vote	N/P	Recording of plat dedicating street, or if official map adopted, no bldg. in mapped streets	N/P	Board of adjustment may grant variance
N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P	N/P
Regs. must be adopted by leg.	N/P	Plats need approval of leg. or other body, including P/C which ord. may designate; in cities under 100,000 then city eng. must approve if city has adopted official map for development of thoroughfares	Leg.	Same as SPA	N/P	N/P	N/P	N/P
Yes, and must be approved by leg.	Yes	Leg. approves subdivs., but if P/C exists it	Leg., if no P/C	N/P	N/P	N/P	N/P	N/P

TABLE IV—CONTINUED

State	Binding Effect of M/P on P/C, in General	ZONING					
		Who Prepares Zoning Plan	Relationship to M/P	Who Adopts	Hearing	Who Amends	Hearing
	parks, playgrounds, & that pub. interest served						
West Virginia	N/P	Z/C or P/C	N/P	Leg.	Yes	Leg.; 3/4 vote if 20% protest within 100'	Yes
Wisconsin	"The purpose & effect of the adoption & certifying of the master plan or part thereof shall be solely to aid the city P/C and the council in the performance of their duties"	P/C with hearing	Same as SPA	Leg.; but 3/4 vote if 20% protest, within 100', if change from P/C recommendation	Yes	No specific provision but presumably same as adoption	N/P
Wyoming <sup>2</sup>	N/P	P/C or Z/C	N/P	Leg.	Yes	Leg.; 3/4 vote if 20% protest within 140'	Yes

<sup>1</sup> After adoption of Master Plan by legislature, it becomes duty of legislature, upon recommendation of Planning Commission, to determine upon reasonable and practical means for putting Master Plan into effect (Sec. 71); Planning Commission may recommend, and legislature may adopt, such measures as may be necessary to insure execution of Master Plan.

<sup>2</sup> No planning enabling act.

<sup>3</sup> If shown on Master Plan, Planning Commission may require shown sites for schools, public parks, and playgrounds to be reserved for at least one year after approval of plat.

<sup>4</sup> According to zoning statute, either, even though a zoning plan is part of the master plan. In cities over 34,000, the planning commission takes over duties of the zoning commission.



TABLE V  
LEGAL IMPACT OF MASTER PLAN ON PUBLIC DEVELOPER

State	When Does M/P Become Effective	Result of Making M/P Effective	Other Approval Provided in Addition to or in Lieu of P/Cs, for Public Construction after M/P Becomes Effective
Standard Planning Act	Adoption by P/C	No street, square, park, other public way, ground or open space, or public bldg. or structure, or public utility, publicly or privately owned, shall be constructed without approval of P/C	Disapproval of P/C may be overridden by 2/3 vote of council or of the agency with jurisdiction in the matter
Alabama	Adoption by P/C	Same as SPA	Same as SPA
Arizona (County)	Zoning plan becomes effective, after adoption by County Board, by local option M/P effective upon adoption by Board, which may disregard P/C recommendations	M/P becomes official guide for development of the area	N/P
Arkansas	Upon adoption and filing	Same as SPA	Disapproval of P/C may be overridden by 3/4 of council, or by 2/3 of agency with jurisdiction
California	Adoption by leg.	Substantially same as SPA; report of P/C considers "whether . . . such public improvement conforms to the adopted M/P"; after adoption of M/P by leg., P/C makes recommendations on Capital Budget	Disapproval of P/C may be overridden by majority vote of leg.
Colorado	Adoption by P/C	Same as SPA	Same as SPA
Connecticut	On date set by P/C	Not necessary to make M/P effective; no public work can be started by municipal agency without P/C approval	P/C can be overridden by 2/3 of council, or by majority of voters in town meeting
Delaware	Adoption by leg. as "official map"	No streets or parks except in accordance with official map	Action may be taken after a P/C report or after 45 days
Florida <sup>1</sup>	N/P	N/P	N/P
Georgia (Gen'l Stat.)	N/P	N/P	N/P
(Spec. Stat.) <sup>2</sup>	M/P is advisory only	N/P	N/P
Idaho	M/P is advisory only	N/P	N/P
Illinois	N/P	N/P	N/P
Indiana	By leg. as "ordinance" adoption	Leg. "shall be guided by and give consideration to M/P"	N/P
Iowa	Becomes "official plan" upon approval by council of plan adopted by P/C	No work of art, public bldg., public structure, etc., without submission to P/C for recommendation as to design and location (no need to pass M/P) No plan for any public improvement affecting the city plan can be approved prior to submission to P/C for recommendation	N/P
Kansas <sup>3</sup>	M/P	N/P	N/P
Kentucky	Adoption by P/C	Same as SPA	Same as SPA



THE MASTER PLAN

TABLE V—CONTINUED

State	When Does M/P Become Effective	Result of Making M/P Effective	Other Approval Provided in Addition to or in Lieu of P/C's, for Public Construction after M/P Becomes Effective
Louisiana	Adoption by P/C	Same as SPA	Same as SPA
Maine	Adoption by P/C	Public bldgs., structures, utilities, streets must be referred to P/C for recommendation	4/5 vote of leg. override P/C
Maryland	Adoption by P/C	Same as SPA	Same as SPA
Massachusetts	"Official map," upon adoption by leg.	No public way unless on official map	N/P
Michigan <sup>4</sup>	Adoption by P/C	Same as SPA; any street improvement or land acquisition voted by leg. cannot be rescinded without P/C approval, after pub. hearing, except by 2/3 vote of leg.	Same as SPA
Minnesota	N/P	In 1st class city, on adoption of major street plan, no streets, sewers, water mains contra to plan	1st class city 2/3 of city council in lieu of P/C approval; otherwise only majority vote necessary
Mississippi <sup>1</sup>	N/P	N/P	N/P
Missouri <sup>6</sup> (1st Class Counties)	Adoption by P/C	Leg. must submit plans for improvements to P/C	Leg. may approve over P/C's objection—must state reasons
Montana (County)	Adoption by P/C	N/P	N/P
Nebraska	N/P	N/P	N/P
Nevada	Adoption by leg.	Same as SPA	If P/C disapproves, leg. may proceed by maj. vote; if any other agency is in charge, then 2/3 vote of that agency
New Hampshire	Adoption by P/Board	Same as SPA	Same as SPA; or by maj. vote in town meeting
New Jersey	Adoption by P/C	(1) No public body can undertake public projects without referral to P/C (2) After adoption of M/P, P/C must also make report prior to adoption of official map (of streets, parks, etc.). (3) Redevelopment plan must conform to M/P "as finally approved by the governing body"	If P/C disapproves, gov. agency can override only by a majority vote of entire membership, which must be approved by leg.
New Mexico	Adoption by P/C	Same as SPA; does not apply to repair, alteration, or continuance of existing pub. utility; for improvements and betterments, P/C has absolute say subject only to New Mexico State Corporation Commission, which may allow such betterments	Same as SPA
New York	Adoption by P/C	Regardless of M/P, P/C approval may be required on streets and highways; no public improvement without P/C approval of streets and access	N/P
North Carolina <sup>3</sup>	N/P	N/P	N/P
North Dakota	Adoption by leg.	Substantially same as SPA minus "utilities"	Same as SPA
Ohio	Adoption by P/C	Same as SPA; narrowing, ornamentation, varia-	Disapproval may be overridden by 2/3

TABLE V—CONTINUED

State	When Does M/P Become Effective	Result of Making M/P Effective	Other Approval Provided in Addition to or in Lieu of P/C's, for Public Construction after M/P Becomes Effective
		tion or changes in use of streets and other public ways, grounds and places subject to P/C approval	of council and dept. head proposing the construction
Oklahoma (Cities over 160,000)	Adoption by leg.	Substantially same as SPA, minus "utilities"	Same as SPA, except that in case of agency which is appointed, the 2/3 vote must be in the leg.
(All Cities)	On some items, leg. must refer to P/C before approval		
Oregon	No M/P; leg. must submit plans for public bldgs., bridges, parks, playgrounds, etc., to P/C for report		Report of P/C has no binding effect unless law or ordinance so states
Pennsylvania (1st Class)	N/P	N/P	N/P
(2nd Class A)	N/P	N/P	N/P
(2nd Class)	Same as SPA	Same as SPA	Disapproval of P/C may be overridden by majority vote of leg.
(3rd Class)		Regardless of M/P, P/C must report on all bills for public improvement, but disapproval not a veto	
Rhode Island	N/P	N/P	N/P
South Carolina (Cities over 34,000)	Adoption by P/C	Same as SPA	Same as SPA
South Dakota	Same as SPA	Same as SPA	Same as SPA
Tennessee	Same as SPA	Substantially same as SPA	Disapproval of P/C may be overridden by majority vote of leg.
Texas <sup>1</sup>	N/P	"Shall not impose any duty on city" in relation to approved plats—otherwise N/P	N/P
Utah	Adoption by leg.	Same as SPA; only no P/C approval needed if in accord with M/P	Disapproval of P/C may be overridden by majority vote of leg.
Vermont	Adoption by voters	All public improvements, to be made from public funds, must be submitted to P/C	Disapproval of P/C may be overridden by majority vote of leg.
Virginia	Adoption by P/C	Same as SPA, except P/C has control only over location of utilities not subject to zoning	Council may override P/C by 2/3 vote
Washington	Adoption by leg.	N/P	N/P
West Virginia	N/P	N/P; before final action on location and design of public bldgs., public memorials, streets, parks, parkways, playgrounds, or other public areas, question must be submitted to P/C for investigation and report	
Wisconsin	Adoption by P/C	"solely to aid city P/C and the council in the performance of their duties"	P/C has 60 days to make report which may be disregarded by leg.
Wyoming <sup>1</sup>	N/P	N/P	N/P

<sup>1</sup> No planning enabling act.<sup>2</sup> Special statute establishes planning commission for Fulton and DeKalb Counties.<sup>3</sup> No formal provision for master plan; planning commission makes recommendations.<sup>4</sup> After master plan, planning commission prepares annually coordinated and comprehensive programs of public structures and improvements; each annual plan looks ahead for 6 year period and gives order of priority of public improvements.<sup>5</sup> In cities of the 1st class, if board of public works does not recommend, city cannot authorize or construct streets, public places, bridges, sewers and drains, gas, steam or water pipes, waterworks, heat or power plants, and other city buildings. This does not apply to libraries, parks, parkways, or boulevards.