To the Graduate Council:

I am submitting herewith a thesis written by John David Lamb entitled "The Neighborhood and the Politics of Zoning." I recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Science in Planning.

George E. Bowen

George E. Bowen, Major Professor

We have read this thesis and recommend its acceptance:

James A. Spencer

J. W. Prochaska

Accepted for the Council:

L. Evans Peck

Vice Chancellor
Graduate Studies and Research

Thesis
T
.L352
cop. 2.

THE NEIGHBORHOOD AND THE POLITICS OF ZONING

A Thesis

Presented for the

Master of Science in Planning

Degree

The University of Tennessee, Knoxville

John David Lamb

June 1977

1324081

DEDICATION

To my family and George in the U. S. for making me remember and to my family and George in the Philippines for helping me to forget. Also to Dr. Don for getting me started.

ACKNOWLEDGEMENTS

Deep thanks to George E. Bowen my major professor and to Mr. James A. Spencer and Mr. Joseph Prochaska my committee members. Also thanks to all of those, both public officials and private citizens, who cooperated in making this thesis possible.

ABSTRACT

This thesis applied the perspectives of political science to a study of zoning. The political factors of zoning and the role of the neighborhood in the politics of zoning were studied and the central hypothesis that neighborhood political activity affects the outcomes of zoning decisions was tested.

To accomplish this thesis, two methods were used. First, a review of the literature on zoning and political science was undertaken and synthesized into a framework for a case study. Second, a case study of Knoxville, Tennessee was undertaken to test the central hypothesis.

The findings of this thesis substantiated the central hypothesis and it was concluded that zoning is political process of governmental land use decision making.

TABLE OF CONTENTS

CHAPTER		PAGE
I.	INTRODUCTION	1
	The Study of Zoning	1
	Methodology	2
	Thesis Organization	3
II.	THE ZONING SYSTEM	4
	Introduction	4
	The Legal Basis of Zoning	4
	The Legislative and Administrative Structure of Zoning	11
	Summary	25
III.	POLITICS OF ZONING	26
	Introduction	26
	Conflict, Politics, Government and Zoning	26
	Politics of Zoning	33
	Summary	61
IV.	CASE STUDY OF KNOXVILLE, TENNESSEE	63
	Introduction	63
	The Structure and Operation of Zoning in Knoxville	65
	Hypotheses	72
	Findings	74
	Summary	101

CHAPTER PAGE

V. SUMMARY AND CONCLUSIONS 104

BIBLIOGRAPHY 109

APPENDICES 114
Appendix A 115
Appendix B 124

VITA 127

LIST OF TABLES

TABLE		PAGE
1.	Tabulation of Planning Commission Recommendation by Presence and Absence of Neighborhood Opposition (Frequency and Percent)	75
2.	Tabulation of Planning Commission Recommendation by Planning Staff Recommendation (Frequency and Percent)	76
3.	Tabulation of Planning Commission Recommendation by Planning Staff Recommendation by Presence and Absence of Neighborhood Opposition (Frequency and Percent)	77
4.	Tabulation of City Council Decision on Proposed Amendments (Frequency and Percent)	80
5.	Tabulation of City Council Decision on Proposed Amendments by Presence and Absence of Neighborhood Opposition (Frequency and Percent)	81
6.	Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Neighborhood Organization (Frequency and Percent)	84
7.	Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Neighborhood Organization (Frequency and Percent)	85
8.	Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Petition (Frequency and Percent)	87
9.	Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Petition (Frequency and Percent)	89
10.	Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Delegation at Hearing (Frequency and Percent)	91
11.	Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Delegation at Hearing (Frequency and Percent)	93
12.	Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Personal Contact (Frequency and Percent)	95

TABLE PAGE

13. Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Personal Contact (Frequency and Percent) 97

14. Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Lawyer (Frequency and Percent) 98

15. Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Lawyer (Frequency and Percent) 100

16. Summary Tabulation of Tests of the Hypotheses 102

17. Summary Description of Knoxville Zoning Districts . . . . .

CHAPTER I

INTRODUCTION

The power to zone gives local governments a significant role in the control of land use. Although zoning is both technical and specialized, in a governmental context it also exhibits political manifestations. This thesis explores several of the political factors of zoning evidenced in the literature and explores the effect of neighborhood political activity on zoning decisions in Knoxville, Tennessee.

A. THE STUDY OF ZONING

Zoning has been studied in many different ways. The legal questions of zoning have been argued extensively in the courts and studied by lawyers, professional planners and governmental officials concerned with zoning. Since zoning is a major extension of the police power, the courts have had to answer many questions on the constitutionality and scope of the zoning power. Lawyers have had a major role in formulating, defending and extending the zoning power, and have commented extensively on its legal basis. Professional planners and governmental officials have studied zoning law mainly for legislative and administrative implications.

The actual zoning process has also been studied but has not advanced significantly beyond the stage of general description and commentary. Scholarly study of the zoning process using the methods and

perspectives of the social sciences are few. Since zoning is a governmental function, the methods and perspectives of political science might prove applicable in further study. The purpose of this thesis is to apply the methods and perspectives of political science in a study of zoning as a political process, and to specifically test for the effect of neighborhood political activity on zoning decisions in Knoxville, Tennessee.

B. METHODOLOGY

Zoning in this thesis is defined as

> . . . the division of a municipality (or other governmental unit) into districts, and the regulation within those districts of:
> 1. The height and bulk of buildings and other structures;
> 2. The area of a lot which may be occupied and the size of required open spaces;
> 3. The density of population; and
> 4. The use of buildings for trade, industry, residence, or other purposes.[1]

The problems addressed are: what are the political factors of zoning; and, what is the effect of neighborhood political activity on zoning decisions? The central hypothesis of this thesis is: neighborhood political activity affects the outcome of zoning decisions.

The perspective for this study of zoning is politics. Politics is not an easy term to define. The political perspective traditionally focuses on the legal and structural basis of government. This thesis

---

[1] William I. Goodman and Eric C. Freund, eds., *Principles and Practice of Urban Planning* (Washington: International City Manager's Association, 1968), p. 404.

uses the traditional approach, but also approaches the study of zoning in the modern behavioral perspective. The behavioral approach attempts to "discover the extent and nature of uniformities in the actual behavior of men and groups of men in the political process."[2] For the purposes of this thesis, politics is defined as the behavior of individuals or groups of individuals acting in a governmental system as they consider, influence and make decisions on public issues.

Two general research methods were used during the course of this study. First, a review of selected literature on zoning and related literature in politics and planning was undertaken to answer the problem questions, test the central hypothesis, and structure a framework for the case study. Second, specific hypotheses were formulated for testing in a case study of Knoxville, Tennessee. A detailed methodology for the case study is presented in Chapter IV.

C. THESIS ORGANIZATION

Chapter II discusses some selected factors of the legal and structural basis of zoning. Chapter III discusses some of the major political factors of zoning and presents a basis for studying the political behavior of the neighborhood in zoning. Chapter IV presents findings of a case study of neighborhood political activity in Knoxville, Tennessee. Chapter V presents a summary of the thesis and conclusions.

---

[2]M. Margaret Conway and Frank B. Feigert, *Political Analysis* (Boston: Allyn and Bacon, Inc., 1972), p. 6.

CHAPTER II

THE ZONING SYSTEM

A. INTRODUCTION

With few exceptions, the pre-zoning regulation of land use was either a function of the courts through the application of nuisance laws, or a function of private contracts among property owners and buyers. With the advent of zoning, the control of land use was expanded beyond traditional nuisance law and became a function of local governments.

The structure of zoning in local government allows the general public to gain access to the process of regulating land use. This access is important in understanding how neighborhoods influence zoning decisions, because without this access, the neighborhood would find it more difficult to influence decisions on land use.

In order to understand how and why zoning came to be a function of local government, it will first be useful to highlight the legal basis of zoning.

B. THE LEGAL BASIS OF ZONING

Prior to the advent of zoning, only nuisance law and restrictive covenants limited the private use of land in any significant way. When an individual uses his land in a manner that causes injury or extreme discomfort to his neighbor or significantly impedes the use of his

neighbor's land, he is creating a nuisance. The nuisance is an infringement upon his neighbor's right to the enjoyment and use of property. Nuisance is defined by the courts through judicial interpretation and common law precedent.

Access to the control of land use through nuisance law is generally limited to the courts, although there are a few legislatively-based nuisance ordinances. Access to the courts is limited by the legal definition of standing in nuisance litigation. Generally, the person bringing suit must be the affected property owner and must be directly affected by the nuisance-causing activity. Access is also limited by the cost of litigation.

Another means of controlling land use is the restrictive covenant. With the restrictive covenant, the owner of a property conditions subsequent sale of the property to certain restrictions of use. Access to the control of land use through the restrictive covenant is limited to the owner and purchaser of property, thus it only has implications for the particular property being restricted.[1]

Neither nuisance law nor restrictive covenants provided a realistic means of controlling the use of land. To meet the problems of land use control, a much broader power was needed. This needed power was supplied by zoning.

---

[1]The above three paragraphs are a synthesis and summary of the following sources: Robert M. Anderson, *American Law of Zoning*, Vol. 1 (Rochester, N.Y.: The Lawyer's Cooperative Publishing Company, 1968), pp. 34-39; and Norman Williams, Jr., *The Structure of Urban Zoning* (New York: Buttenheim Publishing Corporation, 1966), pp. 11-22.

The rudiments of zoning in the United States may be found in actions by the city of San Francisco to restrict land use by controlling the location of Chinese laundries, upheld in the Supreme Court in 1885;[2] and actions by the city of Boston to restrict the heights of buildings, upheld in the Supreme Court in 1903.[3] The theoretical basis for comprehensive zoning was provided by experience in Germany and the new profession of planning in the United States. The first comprehensive zoning ordinance was instituted in New York City in 1913. This was a landmark for zoning, and from this beginning, zoning spread rapidly throughout the United States. The next major landmark in zoning was the United States Supreme Court's ruling on the constitutionality of zoning in the case of Village of Euclid v. Ambler Realty Company[4] in 1926. Zoning continued to spread until, today, almost all municipalities have zoning ordinances, as do many counties.[5]

A comprehensive and detailed study of the legal basis of zoning is beyond the limits of this thesis.[6] However, a brief discussion of the role of nuisance in zoning, the relationship of zoning to the police

---

[2]Seymour I. Toll, *Zoned American* (New York: Grossman Publishers, 1969), pp. 27-29.

[3]Edward M. Bassett, *Zoning* (New York: Russell Sage Foundation, 1936), p. 14.

[4]Village of Euclid v. Ambler Realty Co., 272 U. S. 356, 47 Sup. Ct. 114 (1926).

[5]For a very good history of zoning see: Seymour I. Toll, *Zoned American*.

[6]For a full treatment of the legal basis of zoning see: Robert M. Anderson, *American Law of Zoning*, 4 Vols.

power, and the view of the judiciary toward legislative activities in zoning will be presented as a general framework.

Edward Bassett, an important figure in the early development of zoning, states:

> Zoning is not based on the doctrine of common law nuisance . . . . If zoning had been based on the doctrine of nuisance it would not have been effective, and its broader aspects would not have been upheld in court. A good zoning plan for a city furnishes harmonious regulations for every part so that the whole conserves the health, safety, morals, comfort, convenience, and general welfare of the whole community. To accomplish this purpose the incidence of the regulations on every lot should have a substantial relation to the bases of the police power.[7]

In seeming contradiction, a more recent commentator, Richard Babcock states: "Zoning was no more than a rational and comprehensive extension of public nuisance law. . . ."[8]

The confusion lies in the use of the nuisance principle in guiding court decisions on zoning. The principle in question is "sic utere tuo ut alienum non laedas," or "use your own land in such a manner as not to injure that of another."[9] In the case of nuisance litigation, the courts through common law precedents give substance to the principle.[10] In zoning, the same principle guides court rulings on the scope of the zoning power. Thus, although the same principle guides both nuisance law and zoning, zoning is not based on common law nuisance.

---

[7]Bassett, *Zoning*, pp. 93-94.

[8]Richard F. Babcock, *The Zoning Game* (Madison: The University of Wisconsin Press, 1966), p. 4.

[9]Henry Campbell Black, *Black's Law Dictionary* (St. Paul: West Publishing Company, 1951), p. 1551.

[10]Anderson, *American Law of Zoning*, Vol. 1, p. 35.

In the landmark Euclid case the court used the nuisance principle in guiding its decision on the use of zoning as a function of the police power:

> In solving doubts, the maxim sic utere ut alienum non laedas, which lies at the foundation of so much of the common law of nuisances, ordinarily will furnish a fairly helpful clew. And the law of nuisances, likewise, may be consulted, *not for the purpose of controlling* [emphasis added], but for the helpful aid of its analogies in the process of ascertaining the scope, of the power. Thus the question whether the power exists to forbid the erection of a building of a particular kind or for a particular use, like the question whether a particular thing is a nuisance, is to be determined, not by an abstract consideration of the building or the thing considered apart, but by considering it in connection with the circumstances and the locality . . . . A nuisance may be merely a right thing in the wrong place,--like a pig in the parlor instead of the barnyard.[11]

Land use control through zoning was thus freed from the common law of nuisance, but the principle of nuisance was retained as a point of reference.

Zoning has its basis in the police power of the state. The police power is the general legislative power "to regulate conduct for the protection of the public health, safety, morals, and welfare . . ."[12] Prior to the Euclid case the courts had mixed interpretations of the scope of the police power in zoning. In the Euclid case, the court stated: "The line which in this field separates the legitimate from the illegitimate assumption of power is not capable of precise delimitation.

---

[11]Village of Euclid v. Ambler Realty Co.

[12]Anderson, *American Law of Zoning*, Vol. 1, p. 41.

It varies with circumstances and conditions."[13] The conditions the court found that upheld the extension of the police power in zoning are as follows:

> Until recent years, urban life was comparatively simple; but with the great increase and concentration of population, problems have developed, and constantly are developing, which require, and will continue to require, additional restrictions in respect of the use and occupation of private lands in urban communities. Regulations, the wisdom, necessity and validity of which, as applied to existing conditions, are so apparent that they are now uniformly sustained, a century ago, or even half a century ago, probably would have been rejected as arbitrary and oppressive. Such regulations are sustained, under the complex conditions of our day, for reasons analogous to those which justify traffic regulations, which, before the advent of automobiles and rapid transit street railways, would have been condemned as fatally arbitrary and unreasonable. And in this there is no inconsistency, for while the meaning of constitutional guaranties never varies, the scope of their application must expand or contract to meet the new and different conditions which are constantly coming within the field of their operation. In a changing world, it is impossible that it should be otherwise.[14]

The court ruled that zoning was a proper function of the police power, thus extending the control of land use from the courts to local legislatures. The courts did, however, retain the power to rule on the constitutionality and reasonableness of specific ordinances and the application of zoning to specific properties.[15]

In extending land use control power to local legislatures, the courts also extended the general assumption concerning the wisdom of

---

[13] Village of Euclid v. Ambler Realty Co.

[14] *Ibid.*

[15] *Ibid.*; and Nectow v. City of Cambridge, 277 U. S. 183, 48 Sup. Ct. 447 (1928).

legislative acts. This view of the courts as applied to zoning is stated by Robert Anderson as follows:

> A zoning ordinance is a legislative act. It represents a legislative judgment as to how particular land should be classified, where zoning boundaries should be drawn, and the nature and extent of the restrictions which should be imposed. The authority to zone the territory of a municipality, and necessarily the authority to determine the nature and extent of such zoning, are vested in the legislative body. Accordingly, a legislative decision in such matters may not be disturbed unless the legislature has exceeded its powers or has acted in an arbitrary or unreasonable manner. Legislative judgment in a zoning matter may not be annulled solely because a court disagrees with the wisdom of such judgment. . .In short, a legislative act is presumed to be constitutional and valid. This presumption applies to zoning ordinances.[16]

The practical effect of this assumption is that local legislatures have broad discretion in their zoning decisions, and the courts are reluctant to question the intentions of the legislators.

The power of a local government to zone does not follow directly from court decision. To legally zone, the locality must be granted the power by the state government. This granting of power is usually accomplished through state enabling legislation. Most states have patterned their zoning enabling acts after *A Standard State Zoning Enabling Act* (hereafter referred to as the Standard Act) published by the United States Department of Commerce in 1926.[17] Under this model

---

[16]Anderson, *American Law of Zoning*, Vol. 1, pp. 65-67.

[17]Advisory Committee on Zoning, Department of Commerce, *A Standard State Zoning Enabling Act Under Which Municipalities May Adopt Zoning Regulations*, (Rev. ed., 1926), reprinted in American Society of Planning Officials, *The Text of a Model Zoning Ordinance*, with commentary by Fred H. Bair, Jr., and Ernest R. Bartley (Chicago, American Society of Planning Officilas, 1966), pp. 89-93.

act, legislative bodies of local governments are granted the zoning power "for the purpose of promoting the health, safety, morals, or general welfare of the community . . .,"[18] to "divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this act . . . ."[19]

Two important points are made in the preceding section on the legal basis of zoning. First, control of land use is expanded from the limited control provided by common law nuisance and restrictive covenants to the broad control provided by zoning through the police power. Second, land use controls are extended from the courts and private individuals to local governments by way of state delegation of the zoning power.

In addition to the legal basis of zoning, another important consideration in any study of zoning is its structure in local government. This is especially important in understanding the access provided to the neighborhood in influencing land use decisions.

C. THE LEGISLATIVE AND ADMINISTRATIVE STRUCTURE OF ZONING

This section deals with the formal structure of zoning. Consideration of the legislative and administrative structure of zoning may be divided into procedural and substantive considerations as applied to the initial adoption, day-to-day administration, and amendment of the zoning ordinance.

---

[18] *Ibid.*, p. 89.

[19] *Ibid.*

The minimum procedure for adopting a zoning ordinance is defined by the Standard Act in Sections 4 and 6.

> SECTION 4. METHOD OF PROCEDURE. The legislative body of such municipality shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, no such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in an official paper, or a paper of general circulation, in such municipality. . . .
>
> SECTION 6. ZONING COMMISSION. In order to avail itself of the powers conferred by this act, such legislative body shall appoint a commission, to be known as the zoning commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such legislative body shall not hold its public hearings or take action until it has received the final report of such commission. Where a city plan commission already exists, it may be appointed as the zoning commission.[20]

In commenting on the above two sections of the Standard Act, Robert Anderson notes two important points. First, a formal planning step is required in the zoning commission before legislative adoption. Second, public access to the decision making process is required not only for citizens directly affected, but for all citizens.[21] Thus, the general public has access to both the planning and adoption stage of a zoning ordinance.

---

[20] *Ibid.*, pp. 89-90.

[21] Anderson, *American Law of Zoning*, Vol. 1, pp. 146-47.

After the zoning ordinance has been adopted it must be enforced. The Standard Act does not provide for the structure of administrative enforcement. It leaves this to the discretion of the local legislative body and merely states: "The local legislative body may provide by ordinance for the enforcement of this act and of any ordinance or regulation made thereunder."[22] The structure for administrative enforcement should be incorporated in the zoning ordinance itself. Section 7 of *The Text of a Model Zoning Ordinance* provides a detailed account of administrative enforcement:

> An administrative official designated by the (city council, city commission, city manager) shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the (city council, city commission, city manager) may direct.
>
> If the administrative official shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.[23]

The zoning administrator is often the building inspector, and he has

---

[22]Advisory Committee, *Standard Act* (Section 8 of the Standard Act), p. 92.

[23]American Society of Planning Officials, *The Text of a Model Zoning Ordinance*, with commentary by Fred H. Bair, Jr., and Ernest R. Bartley (Chicago, American Society of Planning Officials, 1966), p. 40.

no discretion in applying the ordinance to individual cases.[24] The remainder of Section 7 of the Model Ordinance sets forth the procedure for granting building permits and zoning compliance certificates used in enforcing the zoning ordinance.[25]

Zoning is not always perfect in application to specific properties. Strict application and enforcement may cause hardships on a few property owners that outweighs the public interest. To remedy this situation, a board of adjustment, sometimes called a board of appeals or zoning board, was established by Section 7 of the Standard Act to give administrative relief from error or the strict enforcement of the ordinance, and to grant special permits and exceptions.[26]

The board usually has both appellate and original jurisdiction.[27] In matters of appeal, the procedure is from the zoning administrator, or other city official, to the board of appeals, and if needed to the courts for judicial review.[28] The appeal may be based on a mistake in the ordinance, a mistake by the administrative official, or a hardship caused by strict enforcement of the ordinance. This last basis of appeal

---

[24]William I. Goodman and Eric C. Freund, eds., *Principles and Practice of Urban Planning* (Washington, D.C.: International City Manager's Association, 1968), p. 437.

[25]American Society of Planning Officials, *A Text of the Model Zoning Ordinance*, pp. 40-42.

[26]Advisory Committee, *Standard Act*, p. 92.

[27]Anderson, *American Zoning Law*, Vol. 2, p. 583.

[28]*Ibid.*, p. 504.

is for a variance. A variance may be defined as follows:

> A variance is an authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by a zoning ordinance. It is a right granted by a board of adjustment pursuant to power vested in such administrative body by statute or ordinance, and is a form of administrative relief from the literal import and strict application of zoning regulations.[29]

The board of adjustment also has original jurisdiction in granting special permits and exceptions. Original jurisdiction means that an individual may apply directly to the board. Appeals from the board's decisions may be made to the courts. A special permit or exception "involves a use which is permitted rather than proscribed by the zoning regulations. Each is allowed only upon approval of a board of adjustment . . . ."[30]

Section 7 of the Standard Act sets forth the general procedural requirements for the board of adjustment and judicial appeal from the board's decisions.[31] The important procedure to note is: "All meetings of the board shall be open to the public."[32] Thus, through this provision, the general public gains access to the administration of zoning.

Once a zoning scheme has been established, it is not meant to be a straight jacket for the future. A mistake in the ordinance, a

---

[29] *Ibid.*, p. 593.

[30] *Ibid.*, p. 596.

[31] Advisory Committee, *Standard Act*, pp. 90-92.

[32] *Ibid.*, p. 90.

change of conditions prevailing in the community, or a change in policy may warrant an amendment to the ordinance. Section 5 of the Standard Act provides for such eventualities:

> Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such changes, signed by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending ____feet therefrom, or of those directly opposite thereto extending ____feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the legislative body of such municipality. The provisions of the previous section relative to public hearing and official notice shall apply equally to all changes or amendments.[33]

The power to amend the zoning ordinance is generally a legislative power[34] and the procedure is essentially the same as for adoption, with two important exceptions. As Anderson notes:

> The Standard Act prescribes special procedures for the amendment of zoning regulations. It imposes upon the amendment process the procedural limitation applicable to original enactment, except the requirement of a zoning commission, and adds a provision for protest, designed to protect property owners against hasty and unwise amendments. Arguably, it serves a landowner's interest in the status quo and encourages continuity of regulation.[35]

In place of the zoning commission required in adoption, many statutes and ordinances require a referral to a planning board or commission before final legislative action. As with the zoning commission's recommendation, the planning recommendation is only advisory;[36] however,

---

[33] *Ibid.*, pp. 89-90.

[34] Anderson, *American Law of Zoning*, Vol. 1, p. 207.

[35] *Ibid.*, p. 157.

[36] *Ibid.*, p. 215.

some states require a majority of the entire legislative membership or an unusual majority of two-thirds or three-fourths to overrule the planning recommendation.[37]

The amendment, being a legislative act, enjoys the same judicial assumption of validity enjoyed by original enactment. In a few states, however, "this assumption may be to some extent modified by the requirement that a zoning ordinance be amended only upon a showing of change or mistake."[38]

The important point to remember at this time is that the general public gains access to the amendment process in zoning. In addition, this access may restrict legislative action on an amendment by requiring a three-fourths majority for passage when 20 percent of the property owners in a specified area oppose the change.

The discussion so far in this section has generally concerned procedural considerations. The remainder of this section will highlight selected substantive considerations of: the purpose of zoning as defined by the police power principles of health, safety, morals or general welfare; zoning in accordance with a comprehensive plan; the change-mistake rule in the amendment process; and the confusion regarding legislative and administrative domain.

Zoning is based on the police power principles of health, safety,

---

[37]American Society of Planning Officials, Planning Advisory Service Information Report No. 115, *Amending the Zoning Ordinance*, (Chicago: American Society of Planning Officials, October, 1958), p. 3.

[38]Anderson, *American Law of Zoning*, Vol. 1, p. 205.

morals or general welfare. For zoning to be a proper function of the police power, it must be based on one or all of these substantive principles.[39] The scope of these principles, however, is not always clear.

The protection of health and safety is probably the most obvious basis for regulation. However, "the relation of specific restrictions to upblic health ranges from the obvious to the obscure."[40] That this is so may be found in the suggestion "that health and safety rank so high on the list of objectives that a municipal legislature may possess a broader discretion in legislating to those ends than is true when regulations are adopted for purposes which are less highly reguarded."[41] A less highly reguarded purpose is the protection of morals. In this reguard, Anderson states:

> In general, it seems doubtful that the tendency to protect the community's interest in morals has figured prominently in the enactment or the approval of zoning restrictions . . . . The real issue has usually concerned health, safety, or the general welfare of the community.[42]

The purpose of the police power to regulate land for the general welfare is an important factor in expanding local governmental control of land use. Whereas health and safety are fairly specific terms, general welfare is fairly vague. This vagueness is the basis for efforts to expand the zoning power into areas not commonly recognized

---

[39] *Ibid.*, p. 476.

[40] *Ibid.*, p. 484.

[41] *Ibid.*, p. 488.

[42] *Ibid.*, p. 494.

as proper areas for regulation. Concerning this, Anderson states:

> The separate identity of "the general welfare" as an objective of zoning regulation has been clouded in zoning litigation dealing with restrictions on land use which promote interests which were not clearly articulated when zoning began, or were not highly reguarded at common law.
>
> As many zoning restrictions relate to the police power through their tendency to promote these arguably peripheral interests, the development of zoning as an efficient instrument depends upon judicial recognition of "general welfare" as an objective equal to and separate from "health, safety and morals."[43]

Under the general welfare principle, things deemed worthy of police power regulations "included the character, desirability, and even the attractiveness of a single-family neighborhood."[44]

It is important to note that much of zoning is based on

> . . .the assumption that a single-family dwelling is the "highest" use of land, and that other uses can be ranked from multiple dwellings through commercial to industrial or unrestricted. The initial constitutional victories in the zoning field were won mainly by demonstrating to the courts that protection of this class of use was related to the public welfare.[45]

Here it is shown that single-family neighborhoods are given special consideration in the basis and philosophy of zoning.

A very confused substantive issue concerns the relationship of the comprehensive plan to the zoning ordinance.[46] This confusion stems

---

[43] *Ibid.*, p. 495.

[44] *Ibid.*, p. 482.

[45] *Ibid.*, p. 593.

[46] For a full discussion of the confusion see Charles M. Haar, "In Accordance With a Comprehensive Plan," *Harvard Law Review* 68 (May 1955): 1154-1175.

from the ambiguous statement in Section 3 of the Standard Act which states: "Such regulations shall be made in accordance with the comprehensive plan . . . ."[47]

The orthodox planning view on this matter may be stated as follows:

> To the professional planner, the dependence of zoning on the master plan is relatively simple and clear. The city master plan is a long-term, general outline of projected development; zoning is but one of many tools which may be used to implement the plan.[48]

To the planner, then, the comprehensive or master plan and zoning are separate and distinct. Zoning should clearly be based on the comprehensive plan so as to implement it.

As a practical matter, "zoning has preceded planning in the communities which now provide for the latter activity, and indeed, nearly one-half the cities with comprehensive zoning ordinances have not adopted master plans at all."[49] Because of this situation, the courts have at times taken the very restricted view that in accordance with the comprehensive plan means nothing more "than that zoning ordinances shall be comprehensive--that is to say, uniform and broad in scope of coverage."[50] Furthermore,

> The analysis of the "comprehensive plan" requirement in terms of the zoning ordinance itself is a common judicial phenomenon. The reasoning seems to be that a comprehensive ordinance, one which blankets the entire area and is internally consistent, is automatically "in accordance with a

---

[47] Advisory Committee, *Standard Act*, p. 89.

[48] Harr, "In Accordance With a Comprehensive Plan," p. 1156.

[49] *Ibid.*, p. 1157.

[50] *Ibid.*

> comprehensive plan." The plan is the ordinance, and the ordinance is the plan, and there is to be no nonsense about a different plan altogether--a master plan--upon which the ordinance must be formulated.[51]
>
> Indeed, where a community has developed and adopted a master plan, the legislative body is not required to follow it. A variation from the master plan to permit a use which, in the reasoned view of the legislative body, will be beneficial to the public welfare is consistent with the comprehensive plan.[52]

Since initial zoning should be based on a comprehensive plan it follows that an amendment to the original ordinance should also be based on the comprehensive plan. This is the orthodox planning view. The courts, again, take a different and more restricted view.

A problem is created in equating the plan with the ordinance:

> If the comprehensive plan is found in the ordinance itself, it follows that an amendment of the ordinance is a change in the plan. The problem is to square the amendment or change with the requirement that zoning be done in accordance with the plan.[53]

The courts have not looked to the ordinance as the comprehensive plan in such instances. They have looked to other extrinsic factors.

The extrinsic factors which the courts have looked to for validation of zoning amendments are generally: some basis for the action in the police power principles of health, safety or welfare; a policy which guides the action for amendment; or a change in conditions or a mistake in the original ordinance. Concerning the police power

---

[51] *Ibid.*, p. 1167.

[52] Anderson, *American Law of Zoning*, Vol, p. 236.

[53] *Ibid.*, pp. 237-238.

principles, the courts

> . . . do not seek first to discover a comprehensive plan and then attempt to square the amendment with the plan. Rather, they inquire whether the amendment in question is calculated to serve the public health, safety or welfare . . . . If the amendment in issue is enacted in the interest of the health, safety, or welfare of the community, most courts will find that it is enacted in accordance with a comprehensive or well-considered plan.[54]

The courts have also upheld amendments if some basis in general policy can be found. In the case of Bartram v. Zoning Commission of Bridgeport, the court upheld the commission's decision based only on the testimony of a commission member that the amendment was based on a general policy.[55]

Some courts take the position that the original zoning ordinance is valid and must not be changed unless a clear showing of a change in physical conditions within the zoning boundaries has taken place or a mistake was made in the original ordinance. In the case of MacDonald v. Board of Commissioners, the court articulated this position; but it is interesting to note the dissenting opinion of one judge who took the position that a zoning change may be based on a change in policy as well as a change in physical conditions.[56]

A word of caution is voiced by Charles Haar concerning the policy approach to zoning amendment:

---

[54] *Ibid.*, pp. 237-238.

[55] Bartram v. Zoning Commission of Bridgeport, 136 Conn. 89, 68 A.2d 308 (1949).

[56] MacDonald v. Board of Commissioners, 238 Md. 549, 210, A.2d 325 (1965).

> The approach has a certain appealing flexibility, but it is doubtful whether flexibility in overly great measure serves the public interest in this area. For the line between flexibility and arbitrariness is a narrow one, and a policy free to shift at will may become no discernable policy at all.[57]

Thus, we find a confused situation in zoning legislation, where no clear criteria are made for either adopting or amending the zoning ordinance. In fact, the confused situation may give so much discretion to the legislative body that arbitrariness may creep in.

Another confused substantive issue is the division of legislative and administrative authority. In addressing this issue, Daniel Mandelker writes:

> As elsewhere in public administration, the basic problem of zoning is to achieve as clear a differentiation as possible between policy-making and policy-application. On this score the Standard State Zoning Enabling Act, on which the majority of the state statutes are modeled, failed to make tenable distinctions. Policy-making was confided to the governing body of the locality, which was given the authority to adopt the zoning ordinance. Administration was given to the zoning administrator, often the building inspector, who has the power to issue zoning permits. But ambiguity comes in the introduction of two agencies, the plan commission and the board of adjustments, known as the board of zoning appeals. Both the commission and the board exercise functions that are partly legislative and partly administrative.[58]

This confusion is confined mainly to granting of variances and exceptions, and the amendment of the zoning ordinance.

---

[57]Haar, "In Accordance With a Comprehensive Plan," pp. 1168-1169.

[58]Daniel R. Mandelker, *Managing Our Urban Environment* (Indianpolis: The Bobbs-Merril Company, Inc., 1963), p. 761.

The board of adjustment, in granting variances and exceptions, interprets the legislative effect of zoning on a particular property. In doing this, the board uses its judgment and discretion.[59] The planning commission, as mentioned before, advises the legislature on amendments, and may have unusual power over legislative acts. In the actions of both the board and the commission, a change in use is involved. The problem is that, "any change in use necessarily alters the underlying policy of the zoning ordinance, which attempted to allocate competing uses in the first place."[60] The board, in granting variances and exceptions, and the commission, in having unusual advisory powers, are thus in effect making policy which strictly should be the domain of the legislative body.

Three important points are made in this section on the legislative and administrative structure of zoning. First, the general public gains access to governmental decision making in land use through zoning at the planning, adoption, administration, and amendment stages. In addition, the immediate neighborhood gains unusual formal powers in the amendment process with the provision for a 20 percent protest. Second, the single-family neighborhood is given special consideration in the assumptions of zoning and the application of zoning based on the police power principle of general welfare. Third, the substance

---

[59]Anderson, *American Law of Zoning*, Vol. 2, p. 542.

[60]Mandelker, *Managing Our Urban Environment*, p. 762.

of zoning is confused in two respects. First, the criteria for initial zoning and the amendment of the ordinance are not clear. Second, legislative and administrative domain is not clearly defined.

D. SUMMARY

This chapter has shown that land use controls have been expanded in zoning through the police power beyond the control provided by pre-zoning methods. This expanded control is vested in local legislatures having considerable discretion in their legislative acts.

In the structure of zoning, the general public gains access to all decision making stages. The neighborhood gains special access in the amendment process, and in addition, also is given special consideration in the basis and philosophy of zoning.

Some major substantial issues of zoning are confused. These issues concern the criteria for adoption and amendment of the zoning ordinances and the division of administrative and legislative functions. Thus, there is some confusion at all stages of zoning.

The cumulative effects of the above legal and structural considerations have an effect on the actual operation of zoning. The next chapter explores zoning operation in a political perspective using the subjects studied in this chapter as points of reference.

CHAPTER III

POLITICS OF ZONING

A. INTRODUCTION

In this chapter, conflict and the role of government in conflict resolution is discussed and applied to conflict situations in zoning. Following this, the politics of zoning is discussed, presenting a framework for the study of politics of zoning. Findings in the previous chapter and the descriptive literature on zoning operations are analyzed using this framework, as are materials concerning the politics of zoning.

B. CONFLICT, POLITICS, GOVERNMENT AND ZONING

Edward Banfield and James Wilson, in their book *City Politics*, write:

> Politics arises out of conflicts, and it consists of the activities . . . by which conflict is carried on. In the foreground of a study of city politics, then, belong the issues in dispute, the cleavages which give rise to them, and the forces tending toward consensus, and the laws, institutions, habits and traditions which regulate conflict.[1]

This section discusses some of the major issues and cleavages in zoning, relating them to the role of government in mediating conflict.

---

[1] Edward C. Banfield and James Q. Wilson, *City Politics* (Cambridge: Harvard University Press and the M.I.T. Press, 1963), p. 7.

Conflict may be either violent or nonviolent. Violent conflict may range from global war to fist-fights. Nonviolent conflict is at times less spectacular and less apparent. "Arguments, disagreements, and elections all can be considered forms of conflict even though there may not be violence associated with them."[2]

Conflict arises out of a difference of action, goals, values, aspirations, or opinion. When these differences meet, there is conflict. In a society, conflict "is most often a product of change."[3] When circumstances change, the effect may be to threaten the values of some individuals or groups. With this threat, there is usually resistance, thus leading to conflict.

Conflict is not always political, but at times conflict reaches such proportions or importance that it must be arbitrated. The ultimate arbitrator is "some kind of governmental body, be it a court, a legislature, or an executive agency."[4]

Banfield and Wilson describe two principle functions of government. One is service for the public interest such as providing police protection or garbage removal, and the other is political, "that of managing conflict in matters of public importance."[5] In providing services, government strives for technical efficiency. In politics, government weighs the less technical aspects, the values and arguments,

---

[2]Paul H. Conn, *Conflicts and Decision Making: An Introduction to Political Science* (New York: Harper and Row, Publishers, 1971), p. 1.

[3]*Ibid.*, p. 4.

[4]*Ibid.*, p. 3.

[5]Banfield, *City Politics*, p. 18.

of competing interests. There may also be a conflict created over the service function, thus involving the political function in seemingly technical matters.[6]

With the rise of urbanism, men come more frequently into contact with each other. All men do not hold the same values or act in the same way. When these different sets of values and actions come together, there may be conflict. One of the conflicts of urbanism is the conflict of different uses of land. Nuisance law is based on the regulation of or legal response to this conflict. Zoning is also based on the regulation of the conflicts in land use, and therefore, may be seen as political.

However, land use does not describe all of the underlying conflicts in zoning. If land use were the only thing being considered, then a more technical, service-oriented approach could be taken in zoning decisions. This technical approach is the ideal planning approach. The fact is that land use is not the only factor in conflict. There are many underlying values which conflict in the zoning process, and which may conflict with technical considerations. These conflicting values make zoning distinctly political.

The two basic goals which motivate most conflicts are gain and preservation. Gain "is the motive of acquisition, of expanding, or of getting or achieving something more than you have at present."[7]

---

[6]David C. Ranney, *Planning and Politics in the Metropolis* (Columbus: Charles E. Merrill Publishing Company, 1969), p. 13.

[7]Conn, *Conflict and Decision Making*, p. 33.

Preservation involves the protection of one's self, one's belongings or one's values.[8]

The different types of conflict situations may be categorized as gain-gain, gain-preservation, and preservation-preservation. Gain-gain conflict involves competition by two individuals or groups wishing to gain the same object or resource.[9] In gain-preservation: "one actor desires to attain a particular goal; however, the attainment of it poses a distinct threat to other individuals or groups. For the goal can only be attained by depriving others or by making others worse off than they are at present."[10] Preservation-preservation conflict is uncommon and arises mainly out of mutual fear and mistrust.[11]

Gain-gain conflict in land use is usually confined to the market mechanism. However, zoning may at times regulate this type of conflict in controlling competition either directly or indirectly.[12] Preservation-preservation conflicts in zoning are not apparent in the literature, which is not to say that such situations do not exist, but they are uncommon. The most prominent conflict in zoning involves gain-preservation motives.

Sidney M. Willhelm, in his book *Urban Zoning and Land Use Theory*, presents three major sets of values finding application in zoning. They are: economic and protective; individual and collective; and

---

[8] *Ibid.*, pp. 34-35.

[9] *Ibid.*, p. 43.

[10] *Ibid.*

[11] *Ibid.*, p. 44.

[12] Daniel R. Mandelker, "Control of Competition as a Proper Purpose in Zoning," *Zoning Digest* 14 (February, 1962): 33-42.

present and future. All three value sets are used by decision makers in zoning, but

> Of the three value sets . . . the economic--protective value orientation is the most significant for decision-makers. This value set dominates the zoning process as decision-makers use it to select a specific zoning classification.[13]

The economic value orientation stresses market considerations, that is, "the highest and best use of the property under considerations."[14] The highest and best use is based on potential for economic gain or "highest investment returns."[15] In contrast to the recognition of the profit motive in the economic value orientation, the protective value orientation rejects the profit motive.[16] Instead,

> Protectionists interpret desirability in zoning land . . . as a matter of land use complying with certain prescribed requirements to encourage residential development. They rank residential development as the most desirable utility for land, while remaining uses are seen as serving residential means.[17]

Thus, there is a basis for conflict in a gain-preservation context involving economic gain and residential preservation. This will be discussed further in the next section.

Incidental to this main conflict situation, the other two value sets also give rise to conflict. The individual-collective value set gives rise to conflicts between individual or group goals and the

---

[13] Sidney M. Willhelm, *Urban Zoning and Land Use Theory* (New York: The Free Press of Glenco, 1962), p. 94.

[14] *Ibid.*, p. 98.

[15] *Ibid.*, p. 95.

[16] *Ibid.*, p. 106.

[17] *Ibid.*, p. 104.

assumed goal of the public interest. The individual value orientation stresses individual or group wants as the prime ingredient of the general public interest. In other words, the public interest is best served and evolves from the satisfaction of individual or group interests. On the other hand, the collective value orientation stresses a general public interest separate and above individual group interests. It is assumed that if the objective public interest is followed in land use decisions then all individual or group interests will be served. Willhelm found that a consistent collective value orientation was absent in his study area of Austin, Texas. He concluded that there was a real and theoretical difficulty in defining the public interest either as an aggregation of individual interests or as an objectively defined interest.[18]

In exploring the individual-collective value set, Willhelm found:

> While on occasion "politics intervenes in zoning decisions, there is no justification for stressing this aspect of the zoning process. The social value orientations presented . . . clearly dominate and, therefore, account for virtually all zoning decisions.[19]

His conclusions were based on observations which tended to show that individual activity did not play a very large role in decision making. In other words, the value orientations of individual decision makers determined the decision outcome irrespective of individual interests. What is important is that Willhelm did not view the values themselves in a political context.

---

[18] *Ibid.*, pp. 114-141.

[19] *Ibid.*, p. 129.

Other authors discussing the same individual-collective value set, but as a basis for broader planning decisions, have argued and found that these values conflict, and are or should be decided politically.[20] The most distinctive statement of this is provided by Norton Long. The plan, to planners at least, represents the objective definition of the public interest. Mr. Long writes:

> Plans are policies and policies, in a democracy at any rate, spell politics. The question is not whether planning will reflect politics but whose politics it will reflect. What values and whose values will planners seek to implement?[21]

Thus, the values themselves, finding application in governmental decisions, are political. Whether the individual or collective value orientation will prevail in decisions is a political question.

The present-future value set also gives rise to conflict. The conflict in this situation is between the gratification of present wants, usually supported by the economic value orientation, and the volitional patterning of future events through a master plan, usually supported by the protectionist value orientation .[22] Although Willhelm

---

[20]For discussions of the problems involved in the identification of the public interest objectively as opposed to a political identification through weighing individual or group interests see: William L. C. Wheaton and Margaret F. Wheaton, "Identifying the Public Interest: Values and Goals," in *Urban Planning In Transition*, ed. Ernest Erber (New York: Grossman Publishers, 1970), pp. 152-64; Alan A. Altshuler, *The City Planning Process: A Political Analysis* Ithaca, N.Y.: Cornell University Press, 1965), pp. 311-19; and Edward C. Banfield, *Political Influence* (New York: The Free Press of Glenco, 1962), pp. 324-41.

[21]Norton E. Long, "Planning and Politics in Urban Development," *Journal of the American Institute of Planners* 25 (November 1959): 168.

[22]Willhelm, *Urban Zoning*, pp. 141-168.

does not comment on the political nature of this situation, it is apparent that conflict may exist between present gratification and future planning. In a governmental situation one can again ask, whose values will prevail? Again, this question is political; the public decision makers must decide.

In this section, a conceptual framework of conflict is presented and applied to zoning. It is shown that one function of government is the management of conflict. This conflict management function is political by nature. Zoning involves at least four conflicts. One is land use which may be seen as political but is more clearly technical in nature. However, land use is not the only conflict in zoning. Three value sets which may be found in zoning also conflict and make zoning distinctively political. The most important of these conflicts involve the economic-protective value set which is basically the same as the gain-preservation goals which motivate most political conflict. In the economic-protective value set, economic gain and residential preservation are the two goals that conflict.

C. POLITICS OF ZONING

According to Banfield and Wilson in their book *City Politics*:

> In the foreground of a study of city politics . . . belong the issues in dispute, the cleavages which give rise to them, and the forces tending toward consensus, and the laws, institutions, habits and traditions which regulate conflict.[23]

---

[23]Banfield and Wilson, *City Politics*, p. 7.

The issues and clevages in zoning are described in the preceding section. The laws, institutions, habits and traditions which regulate conflict are reviewed in Chapter II. The political forces tending toward consensus in zoning is the subject of this section.

In studying the politics of zoning in the previously described structural and value-conflict environment, the following questions need to be answered: "Who are the actors? What are their stakes in the resolution of the issue in question? What political resources do they possess? [and] How well do they use those resources?"[24] In addition, to discover the actual effects of the use of resources, one other question should be answered; it is, who wins?[25]

The actors in a zoning issue are defined by their participation in the zoning process. They are motivated to participate by their stakes in the issue. A stake refers to any value which is capable of being changed or threatened, or at least perceived as being changed or threatened, by the issue outcome or final decision. A political resource is a means of influencing the issue outcome. The use of political resources may be termed a strategy. The measure of effectiveness of strategies is whether or not the actor wins the issue, that is, prevails in the issue outcome. "Who wins" is a relative term and should not be taken to mean complete victory. An actor may "win" to a greater or lesser degree if he somehow influences the issue outcome

---

[24]Ranney, *Planning and Politics*, pp. 112-13.

[25]Nelson W. Polsby, *Community Power and Political Theory*, (New Haven: Yale University Press, 1963), p. 4.

toward his own interest. Thus, with two competing interests, both may "win" by bargaining their values in the issue outcome. Conversely, both may loose by having to bargain away some of their values.

Some of the actors are defined in the structure of zoning. In the preparation and adoption of the zoning ordinance the actors are the zoning commission, legislative body, and the public. In administration, the actors are the enforcement officer, board of adjustment, applicant for a variance or permit, and the general public. In amendment of the ordinance, the actors are the planning commission, legislative body, applicant for amendment, and general public, with special attention given to surrounding property owners.

The politics in the administrative process of enforcement and appeals is not readily apparent in the literature. Administration is sometimes considered in the context of the entire zoning process and is generally denounced, as may be discerned from the following quotes:

> . . . there are far more examples of faulty and even scandalous zoning administration than there are examples of effective handling of zoning problems.[26]
>
> The running, ugly sore on zoning is the total failure of this system of law to develop a code of administrative ethics . . . .
>
> The unattractive truth is that zoning administration has no dignity. A law that lacks dignity claims small respect, and without respect it will degenerate into a crude test of competing power systems.[27]

---

[26]Marvin R. Springer, "Zoning Administration," *Proceedings of 1960 the Institute on Planning and Zoning* (Mathew Binder and Company, Inc.: N.P., 1961), p. 125.

[27]Richard F. Babcock, "The Chaos of Zoning Administration: One Solution," *Zoning Digest* 12 (January 1960): 1-2.

S. J. Makielski provides a political analysis of the adoption process of the original 1916 comprehensive zoning ordinance of New York City. He also discusses comprehensive rezoning which has many of the characteristics of original adoption in that it affects all or a major portion of the city.[28] A distinction should be made here between a comprehensive rezoning, which is technically classified as an amendment to the zoning ordinance,[29] and the usual amendment of small areas or single properties. Comprehensive rezoning will probably generate a wide range of interests among actors, similar to original enactment. On the other hand, a small parcel rezoning will usually not generate as wide a range of interest. The politics of amendment to small properties will be discussed later.

Zoning as a major policy shows the same characteristics as most other major policy areas of a city. The actors effected are characterized by a wide range of interests. Makielski distinguished two broad categories of actors: governmental participants and nongovernmental participants.

The governmental actors were the elected officials and administrative agencies. The elected officials in New York's zoning case had a major stake in political survival:

---

[28]S. J. Makielski, Jr., *The Politics of Zoning: The New York Experience* (New York: Columbia University Press).

[29]Anderson, *American Law of Zoning*, Vol. 1, pp. 166-67.

> Their survival--whether they remained in office for another term or not--depended on what happened on primary day and election day. To a large extent, they calculated their policy stands in terms of the effects that such stands might have on the party organization and on the electorate.[30]

Thus, electoral votes were a major stake for elected officials. The main resource that elected officials had to defend their stakes was the greatest of all the governmental participants' resources, their votes. "The formal rules (laws) provided them with votes . . . votes with which they could bargain if not defeat (or enact) a proposal."[31]

The administrative agency most important for consideration in this thesis was the planning commission. One of its stakes in zoning was

> . . . related to survival and preference . . . the survival of agency existence and function in pursuing a line of policy that conformed to the agencies' goals and aspirations . . . [and the competition] . . . for allocation of funds, personnel, functions, and the good favor of the elected officials.[32]

The goals and aspirations of the planning commission included "the stake of the reformer in a 'general' approach to urban problems."[33] In other words, the goal at stake was the reformer's idea of general public interest. "The greatest resource of the planning commission, and one only occasionally used, was its staff."[34]

---

[30]Makielski, *Politics of Zoning*, p. 115.

[31]*Ibid.*, p. 129.

[32]*Ibid.*, p. 116.

[33]*Ibid.*, p. 126.

[34]*Ibid.*, p. 130.

To understand the stake of the public interest more fully, the place of the reform movement in zoning needs to be discussed. The reform movement was a good government movement gaining political prominence during the time zoning was enacted in New York. In describing the reform movement, Makielski states:

> The reform persuasion was a product of impatience with the "corruption" and "inefficiency" of machine politics. The reform credo argued for "rational, efficient," and business-like approaches to local government. The reformer favored non-partisan elections, civil service reform, city planning, and "good government" in general. He felt that the city should be approached from a "general, community-wide" view.[35]

Although reform was not the only stimulus for zoning, and was generally concerned with other matters, it did have a great impact on the form and philosophy of zoning.

One of its greatest impacts on the form of zoning, and planning in general, was the structuring of the planning function in the overall political structure of the city. The reform view saw planning as a distinctively public, general and comprehensive endeavor which should not reflect politics or special interests. It was reasoned that, because of this, planning should somehow be isolated from the everyday stresses of politics. This was accomplished, at least in theory, by forming a separate and independent planning function outside of the mainstream of government. This planning function was embodied in an independent planning commission made up of prominent,

---

[35] *Ibid.*, p. 130.

civic-minded citizens who were advised by expert planners.[36] This structuring of the planning function in government turned out to be a political liability in New York zoning, as will be seen later.

The non-governmental actors identified by Makielski may be categorized as the economic interests, social interests and ideological interests. The economic interests may generally be classified as builders, real estate interests, architects, and business groups. The stakes of these groups were generally economic, that is, profits, although there were some professional stakes with architects in the types of buildings and designs that could be allowed by the zoning ordinance.[37]

The social interest were generally the homeowners' groups.

> The homeowners' groups saw their stake in zoning as primarily "socially" oriented. Almost without exception the homeowners' groups viewed zoning as a potential source of protection or a manace to the integrity of their residential "neighborhood."[38]

This stake of residential protection "led the homeowners to be in frequent and direct opposition with the local chambers of commerce, and the builders' associations."[39] The homeowner's groups were generally transient in nature and concerned mainly with their own narrow geographical area or neighborhood.[40]

---

[36]For a general discussion of the reform ideology see Banfield, *City Politics*, pp. 138-150; for a discussion of the role of reform ideology in planning see Ranney, *Planning and Politics*, pp. 35-42.

[37]Makielski, *Politics of Zoning*, pp. 133-44.

[38]*Ibid.*, p. 145.

[39]*Ibid.*

[40]*Ibid.*, pp. 146-147.

The ideological interests may be classified as "the 'general civic groups,' 'good government' organizations, the groups that acted as 'watchdogs' of the city government."[41] Their general stake in zoning was the reform ideal of the public interest, business-like government and planning.[42]

Concerning the resources of the non-governmental actors, Makielski writes:

> Each interest group brought some resources to the zoning contest: the general business groups, their prestige and connections in the world of finance, industry, and government, and their large staffs; the real estate and architect's groups, an intimate involvement in land use policies and a professional competence in the field; the general civic groups, their political skill and knowledge from years of being in the political arena, and the homeowners' and local civic groups, their more or less mass memberships.[43]

Because of the fragmentation between and within the interest groups, Makielski found it "difficult, if not impossible, to assess the relative 'strengths' of the non-governmental interest groups."[44] Thus, the questions of the effective use of resources and who wins were relative.

The strategies of the planning commission and the similarly situated zoning commission in initial adoption varied. In initial adoption, the zoning commission was concerned with getting zoning adopted as expediently as possible. It approached zoning both technically and pragmatically. According to Makielski:

---

[41] *Ibid.*, p. 147.

[42] *Ibid.*, pp. 147-149.

[43] *Ibid.*, p. 151.

[44] *Ibid.*

> Its first labor was almost purely technical: gathering and digesting the data necessary to evolve a coherent districting plan . . . .
>
> The second task was political: winning friends, convincing the dubious, generating interest, and quashing opposition.[45]

In carrying out its strategy, the zoning commission paid special attention to the homeowners' groups,

> . . . to win the homeowners--the "people," the "grass roots" --by aiming at the homeowners' Achilles' heel: preservation of "neighborhood virtues." Over and over again, the commission emphasized that it "wanted to preserve the character of existing neighborhoods."[46]

As the hearings began and progressed on the proposed ordinance, all of the interests began making demands and bargaining until finally the first comprehensive zoning ordinance, showing the imprints of its political struggle, was enacted on July 25, 1916.[47]

After the 1916 ordinance was adopted, four efforts were made to rezone all or major portions of New York. Two plans were proposed by the planning commission between the years 1917 and 1945 and were defeated. The planning commission in these two instances was under the strong influence of the reform ideology of the public interest, was structurally separate from the mainstream of politics, and had a general unwillingness to bargain. Makielski notes that the unwillingness to bargain the public interest with special interests and the political isolation of the planning commission were major factors in the two

---

[45] *Ibid.*, p. 26.

[46] *Ibid.*, p. 27.

[47] *Ibid.*, pp. 33-40.

defeats. During the years 1949-1953 another attempt was made at rezoning. In this instance, Makielski notes, the commission did not utilize its resources and support effectively and thus suffered another defeat.[48]

In contrast, during the period between 1956 and 1960, another attempt at rezoning was made which was successful. In this instance Makielski notes that the commission and staff, under strong leadership, actively lobbied and bargained for support. The reform ideology of the public interest was bargained with special interests but the proposal was passed.[49]

Makielski concluded from his study of New York zoning that,

> There was a multiplicity of participants--both governmental and nongovernmental--and these actors were committed to stakes in zoning that often were noncongruent or in conflict and that, even more often, were not in agreement with the goals of the planners and the reformers.[50]

He further concluded that the zoning system in New York was pluralistic and characterized by bargaining where "no single actor or set of actors was able totally to dominate zoning policy-making."[51] Although using a slightly different conceptual view of government than is used in this thesis, Makielski also concluded that, "all the participants relied on the processes of the zoning system to arbitrate conflict . . . [the service function] appears to have played the least prominent part."[52]

---

[48] *Ibid.*, pp. 41-81.

[49] *Ibid.*, pp. 81-106.

[50] *Ibid.*, p. 181.

[51] *Ibid.*, p. 185.

[52] *Ibid.*, p. 189.

To summarize Makielski's findings, there were conflicts in the zoning process in New York that may be categorized as gain-preservation, that is, economic gain and residential preservation. These two conflicting special interests also conflicted with the ideal public interest in a conflict similar to the individual-collective conflict. While no one interest won in an absolute way, all had an impact on the issue outcome. Thus, from the Makielski study, it may be concluded that the neighborhood, while not winning absolutely, did have an effect on decisions in zoning.

This review of a study of adoption and comprehensive rezoning shows the many and varied actors, stakes, resources and influences in zoning as a major policy. In the more routine and common amendment to the zoning ordinance, many of the same actors, stakes, resources and influences are present. The politics of amendment to the zoning ordinance will be the subject of the remainder of this thesis.

There are three general forms that amendments to the zoning ordinance may take:

1. A revision of the entire ordinance, after re-examination of the factors on which the original ordinance was based and a review of subsequent problems;

2. Minor amendment of particular provisions or of the zoning map, in response to situations that arise in the administration of the ordinance; and

3. Amendments, primarily to the zoning map, designated to embrace newly annexed property.[53]

---

[53]Goodman, *Principles and Practice*, pp. 418-19.

The first form was discussed in the review of the Makielski study. The third form is somewhat uncommon and, therefore, will not be discussed. The second form includes amendments to the text of the zoning ordinance which are also uncommon and, therefore, will not be discussed. The following discussion of the amendment process will concentrate on the most frequent amendment form the amendment of the zoning map.

It should be noted that not all amendments generate conflict. Those that do usually involve opposition by an individual or group in the immediate neighborhood. It is this type of amendment that this thesis addresses.

Richard Babcock, in his book *The Zoning Game*, identifies the main actors in the zoning process. They are: the planner, the planning commission, the city council, the developer, the neighborhood, the lawyer and the judge.

Since this thesis is not concerned with judicial review, the judge as an actor in the amendment process will not be discussed, although the judge does play a significant role in zoning through his interpretations of zoning law. The lawyer, as an actor in the amendment, process, is not a primary actor. His stake in the process is in many cases economic, that is, his fee for legal service, however, his stake is incidental to the stake of his client. His resources are his knowledge of the legal system of zoning and the way the system works. These resources are used for his client, thus the resources, for the purpose of this thesis, are considered the client's, and the use of a lawyer's services will be considered as the client's strategy.

David Ranney characterizes the planner as "a reluctant key figure in the changing of the zoning ordinance."[54] This may be due to

> . . . the dismal fact that the planner . . . finds that he must spend more time working with zoning than with any other planning tool; zoning, the very device he has been taught in planning schools and professional conventions to regard as a dull, ineffective instrument.[55]

The planner's stake in the amendment process is professional. He must "ascertain that the change will not violate the spirit of the plan and will be in the best interests of the entire community."[56] Thus, the planner's stake in amendments is the same stake as in adoption, that is, the reform ideal of the public interest.

The major resource of the planner is expertise.[57] However, this expertise may not be very effective in the amendment process. Babcock notes that "the planner has no sanctions by which to enforce his opinions."[58] In addition, the planner may operate in an environment where the decision maker thinks that when it come to zoning he knows better than any professional.[59]

Francine Rabinovitz identifies four other sets of resources that the planner may utilize. They are: information and invention,

---

[54]Ranney, *Politics and Planning*, pp. 129-36.

[55]*Ibid.*, p. 130.

[56]Babcock, *The Zoning Game*, p. 62.

[57]Ranney, *Politics and Planning*, p. 131.

[58]Babcock, *The Zoning Game*, p. 64.

[59]*Ibid.*, p. 30.

bureaucratic position, time and motivation, and access to other resources.[60] Although these resources were utilized in studying the role of the planner in broader planning issues, some may also be applicable to the amendment process. Information is an important part of expertise. The planner bases his expertise on technical considerations which require information. The plans, studies and reports done for or by the planning agency are an important information resource. Invention, as a resource, is not readily applicable to zoning since the planner is usually reviewing and reacting to another actor's proposal. However, at times the planner may initiate alternatives which may satisfy other actors and protect his own stakes. Bureaucratic position may be an important resource in that it insures continuity of contact. While other actors, such as the amendment petitioner and neighborhood, change with different amendment proposals, the planner is always involved. Time is an important factor in that the planner may concern himself more fully with zoning matters than the other actors, who usually have other activities demanding most of their time. Motivataion is usually lacking since, as was mentioned earlier, the planner is a reluctant actor. Access to other resources is of small importance in rezoning, but the planner may be able to call on other city agencies for information.

---

[60]Francine F. Rabinovitz, *City Politics and Planning*, (New York: Atherton Press, 1969), pp. 119-130.

The major strategies of the planner are embodied in his recommendations on the amendment proposal. In the recommendations, his strategies should be logical thinking and clear language in the presentation of his professional views. It is with these that he can best utilize his expertise and information.[61] He may also use his bureaucratic position to argue with and persuade other governmental actors. In addition, the planner may hold meetings with the nongovernmental actors to explain his position.[62]

The planner will usually make his recommendation to a planning commission. The planning commission does not usually make the final decisions on amendments but makes recommendations to city council.

The ideal function of the planning commission is planning, however, it is often virtually overwhelmed by zoning matters. One study showed that some planning commissions spend as much as 90 percent of their time on zoning matters, with average being about 40 percent.[63]

The commission members are supposed to be non-political, impartial decision makers, Thus one of their stakes is impartiality. The plan and the public interest are also stakes. All three stakes reflect the influence of the reform ideology.

---

[61]American Society of Planning Officials, Planning Advisory Service Report No. 240, *Public Hearings, Controversy, and the Written Response* (Chicago: American Society of Planning Officials, November 1968), p. 1.

[62]Raney, *Planning and Politics*, p. 134.

[63]American Society of Planning Officials, Planning Advisory Service Report No. 195, *The Planning Commission--Its Composition and Function* (Chicago: American Society of Planning Officials, February 1965), p. 3.

Robert Walker, in his book *The Planning Function in Urban Government*, sheds light on some underlying stakes of planning commissioners. In studying 31 planning commissions in the late 1930's, Walker found that commission appointments were at times political. Although this was the case, he found little evidence that the commissioners were swayed by special interests outside of the commission. What was important, however, was that the membership of the commission was overrepresented by business and building interests. These interest comprised approximately 80 percent of commission membership studied. This overrepresentation at times showed itself in the form of conflicts of interests on matters before the commission, thus stakes may be personal and economic. More enlightening, however, was Walker's finding that the status and prestige of commission members can be a stake in controversial issues. Walker concluded that, although the commission was above the day-to-day pull of politics, they were not any more objective than elected officials.[64]

Sidney Willhelm, in his study of zoning, concluded that the social values which the individual commission members held motivated them in their decisions.[65] Thus, individual conviction or opinion may be a stake of commission members. Willhelm, like Walker, also concluded that individual interests outside the planning commission did not have much impact on planning commission decisions.[66]

---

[64]Robert Averill Walker, *The Planning Function in Urban Government*, 2nd ed. (Chicago: The University of Chicago Press, 1950) pp. 147-55.

[65]Willhelm, *Urban Zoning*, p. 129.

[66]*Ibid.*, pp. 127-30.

The planning commission may defend its stakes by the use of three main resources. It may utilize the planner and his expertise in making objective decisions, it has the power to review and to make recommendations to city council on proposed amendments, and the recommendations it makes may have an influence on city council action by requiring an unusual majority to overrule the commission recommendation.[67]

City council is the final decision making body. The council member may have a large political stake in rezoning. According to David Ranney:

> The elected governmental officials . . . are expected to help preserve the suburban character of the community. At the same time they must provide the level of public services which the citizens demand. Given these diverse voter expectations, a change in the zoning ordinance can be very tricky politically.[68]

This political stake is based on votes and elections. In this regard, Catanese feels that: "Getting reelected is the first rule of politics."[69] He further states:

> This condition directly affects the kinds of decisions that the politician may make. It often means that friends and supporters have a special equity in the political process. This could mean that the politician can be an idealist or adhere to a specific political viewpoint to only a limited degree. He must adopt the posture of being a "satisficer" so that the major equity positions are content and the minority equity positions are not disgruntled

---

[67] See, this thesis, pp. 16-17.

[68] Ranney, *Politics and Planning*, pp. 131-32.

[69] Anthony James Catanese, *Planners and Local Politics: Impossible Dreams*, Sage Library of Social Research, vol. 7 (Beverly Hills: Sage Publications, 1974), p. 69.

> entirely. If this entails the "art of compromise," then it is rational to the politician to behave in such a manner . . . . It is the rare politician at the state and local level who feels bad over a compromise decision. On the contrary an ability to construct compromise decisions is considered a remarkable trait of the politician.[70]

In the above quote, it can be seen that one of the strategies that may be used by a city council member is compromise. This strategy is based on the resource of his authority to vote on final decision. With his vote, he has the power to give or withhold support for a given rezoning proposal, and to influence others to bargain.

Other strategies that a councilman may use are delay and scapegoating. Babcock states: "The technique of interminable delay has been elevated to a refined art by local decision-makers."[71] With delay, the council may force a developer to come to some compromise before his proposal is passed. Delay may also be used to mute opposition. The more delay there is between initial conflict and decision, the more likely is opposition to wane. Scapegoating is similar to the delaying strategy but involves putting the blame for decision on someone else, usually the planner. Ranney states:

> If the hearing indicates strong opposition, a favorite ploy is to refer the matter back to the planner for "further study." Often the planner becomes the goat in an unpopular zoning decision. The politician may take the position that he must rely on his professional staff for technical advice and his planner feels that the zoning ordinance should be changed. In this manner he can soften

---

[70] *Ibid.*, pp. 69-70.

[71] Babcock, *The Zoning Game*, p. 53.

> criticism directed toward him by suggesting that he is simply taking the advice of his planner who evaluates zoning matters from a professional point-of-view and in the interest of the public as a whole.[72]

Thus, the planner may, in addition to being an unwilling actor, also be an unwilling scapegoat.

The council as a whole may have an indirect economic stake in rezoning. To provide services, the council must consider taxes. In amendments, the change of zoning may increase the value of the property, thus generating more taxes. This may be a stake in that an increase in taxes may be used to increase services to people. Thus a city council member may at times consider this aspect of an amendment.[73]

The city council member may also have a personal, economic stake in some amendments, Joseph Prochaska, in a study of spot zoning in Lansing, Michigan, found that on certain occasions city council members had an economic interest in amendments passed which were contrary to Lansing's master plan, and which were at times passed over the strong protests of surrounding neighborhood property owners. In each of the instances, the council members involved gained economically from the amendment.[74]

---

[72]Ranney, *Planning and Politics*, p. 135.

[73]*Ibid.*, pp. 131-133; and the National Commission on Urban Problems, Research Report No. 11, *Zoning Controversies in the Suburbs: Three Case Studies*, prepared by Ramond and May Associates (Washington, D.C.: Government Printing Office, 1968), p. 78.

[74]Joseph Martin Prochaska, "The Effect of Spot Zoning on the Master Plan, a Case Study: Lansing, Michigan" (Master's Thesis, Michigan State University, 1958), pp. 35-42.

The city council member defends his stakes with his vote. This vote may be used in the public interest, it may be used to support private interests, or it may be used to support his personal interest. At a practical level, however, the council member's authority is dependent on electoral votes and support from other actors. Thus, other actors may modify and influence the councilman's vote with their own resources and strategies.

The amendment petitioner is another actor in the amendment process. Most requests for zoning amendments come from individual property owners.[75] Usually, petitioners for amendment have economic stakes. That is, most petitioners wish to change the zoning of their land in order to use it in a manner that would be more profitable than allowed under present zoning.[76]

Babcock discusses two types of economic interests that may have a stake in amendment of the zoning ordinance. One is the residential developer. The stake of the residential developer is "to make money in his chosen vocation."[77] The other is the industrial developer who has similar economic stakes.

The two types of developers are not treated alike by the other actors. The residential developer is characterized as a

---

[75]Goodman, *Principles and Practice*, p. 421.

[76]Ranney, *Planning and Politics*, p. 132.

[77]Babcock, *The Zoning Game*, p. 50.

"wheeler-dealer,"[78] and the municipality "expects nothing better than rape from the residential builder."[79] In contrast, Babcock notes:

> For the non-residential builder, the discussion with the municipality usually starts with the premise that he is wanted. In some cases the municipality throws itself at the developers feet, offering, if not gold, at least the equivalent in land, tax relief, and financing of the plant.[80]

This contrast of attitudes stems from the fact that the residential builder, whether he builds single-family homes or apartments, has been condemned for his practices. In building single-family homes he is condemned for his lack of aesthetic taste and concern for the environment. In building apartments, he is seen as a parasite. In the Euclid case, the court made special mention of apartments:

> With particular reference to apartment houses, it is pointed out that the development of detached house sections is greatly retarded by the coming of apartment houses, which has sometimes resulted in destroying the entire section for private house purposes; that in such sections very often the apartment house is a mere parasite, constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district.[81]

The industrial builder, on the other hand, ultimately provides jobs and stimulates the local economy. This is usually welcomed and encouraged, but even here there may be opposition. "The middle-class

---

[78]Ewing Matherly Johnson, Jr., "The Rezoning Process: Babcock's Players in a Real World Setting" (Master's Thesis: University of Tennessee, 1973), p. 30.

[79]Babcock, *The Zoning Game*, p. 41.

[80]*Ibid.*, p. 56.

[81]Village of Euclid v. Ambler Realty Co.

suburb often rejects industries which would employ large numbers of lower-class workers."[82]

One of the resources of the amendment petitioner is the power of initiation. Raymond and May Associates, in studying three zoning cases in New York for the National Commission on urban problems, found that:

> In all studies the developer making the proposal for the site exerted considerable force because he had the *power to initiate the situation, to take the offensive to set the terms of the question.* As the owner, or holding an option, of the site, he had a *basic right to develop his property* which the local government could not absolutely deny: it could only set conditions thereon.[83]

In addition to this formal resource in the amendment process, the amendment petitioner also has informal resources such as money, staff support and legal counsel. He also has formal and informal access to the planner and the decision makers.

In using these resources, the petitioner may use an assortment of strategies. Ranney notes:

> He may go to the planner before making [the] proposal and attempt to gain the planner's aid and support. He may also go to certain other influential public officials and key private citizens . . . . If, prior to his formal request to the council, the petitioner can gain the support of the planner and other key people, the decision concerning his proposal can be wrapped up before other interested citizens get into the proceedings.[84]

---

[82]Babcock, *The Zoning Game*, pp. 56-57.

[83]National Commission on Urban Problems, *Zoning Controversies*, p. 72.

[84]Ranney, *Politics and Planning*, p. 134.

The use of the lawyer as a resource introduces a different set of strategies. Clan Crawford, Jr. in his book *Strategy and Tactics in Municipal Zoning* provides some insights into the strategies used by lawyers in the amendment process.

The overall strategy of the lawyer is to present his client in the most favorable light possible. The lawyer will stress the public interest of his client and attempt to prove that the other side represents only special interests.[85] At times a strategy of sympathy may be used. In this regard Crawford notes:

> The recently widowed lady whose children have grown up and moved away and who says she can no longer afford to keep the house in which she has lived for many years unless she is allowed to convert it into a two-family house, may win a variance, or perhaps even a rezoning, on this basis. When such a plea is made the neighbors are not likely to oppose too strongly.[86]

Another strategy may be termed "bending the councilman's ear." In this strategy, the lawyer acts as a lobbyist for his client outside the formal structure of zoning.[87] Another strategy is the threat of legal action. This threat will in many cases cause the decision makers to more seriously consider the proposal.[88]

Another strategy that is not mentioned frequently in the literature is the use of bribery and campaign contributions. A Ralph Nader report entitled *Politics of Land* found that in California, bribery

---

[85] Clan Crawford, Jr., *Strategy and Tactics in Municipal Zoning* (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1969), pp. 43-44.

[86] *Ibid.*, p. 45.

[87] *Ibid.*, p. 106.

[88] *Ibid.*, p. 108.

and campaign contributions at times had an effect on governmental decisions on land use.[89]

The amendment petitioner may be viewed as having an economic interest in a gain-preservation conflict. The neighborhood, on the other hand, may be seen as having a preservation interest in opposition to amendment proposals.

In defining the neighbor, Babcock states: "The 'neighbor' is he who protests a proposed rezoning from, say, single family to apartment or from single family to commercial."[90] The neighborhood in the amendment process may thus be defined by its opposition in the amendment process. This is not to say that the neighborhood may not also participate by supporting amendments or initating them, but the most common form of participation is opposition.[91]

The stake that motivates neighborhood participation in the amendment process is generally the protection of the character of the neighborhood. A related stake may be economic, that is the proposed amendment may lower property values,[92] but as Babcock states, the "overriding motivation is less economic than it is social."[93] The neighborhood usually wishes to exclude anything but single family residences.

---

[89]Robert C. Felmeth, project director, *Politics of Land* (New York: Grossman Publishers, 1973), pp. 482-86.

[90]Babcock, *The Zoning Game*, p. 140.

[91]National Commission on Urban Problems, *Zoning Controversies*, p. 77.

[92]Ranney, *Politics and Planning*, p. 133.

[93]Babcock, *The Zoning Game*, p. 31.

One of the neighborhood's most important resources is access to the decision making process. It would appear that the main disputes in zoning would "be only between the petitioner and the municipality."[94] Thus, the neighborhood may be seen as external to the main organization of zoning. The importance of access may be seen in the following quote:

> Groups external to an organization may find one particular structure more amenable to their gaining access in influencing organizational decision-making than they find alternative structures. These groups may find that purely formal structure affects access.[95]

In zoning, as mentioned in Chapter II, access is structurally assured to the neighborhood. In addition, this access may give unusual power to the neighborhood in that it is possible to require an unusual majority on city council to overrule its opposition. This is most uncharacteristic when compared to other governmental matters considered by local legislative bodies.

In addition to the resource of access, another major resource of the neighborhood is its potential for getting a large number of people involved. Robert Anderson, in commenting on the general atmosphere of zoning, makes note of this:

> Legislators, including those of municipal corporations, historically have made their decisions in an atmosphere of

---

[94] *Ibid.*, p. 140.

[95] Charles A. Joiner, *Organizational Analysis: Political, Sociological, and Administrative Processes of Local Government* (East Lansing: Michigan State University Institute for Community Development and Services, 1964), p. 15.

> conflict. The devices employed by proponents and opponents to influence legislative decisions include not only those of reasoned persuasion, but also an arsenal of wepons ranging from the offering of benefits to the withholding of political support. Zoning decisions have not been immune from these pressures. In fact, there is reason to suppose that zoning issues are as hotly contested as any, and more vigorously fought than most.
>
> Nearly always evident at public hearings on zoning matters is the pressure of numbers. Standard operating procedure for opponents of the proposed change is to assemble a large, angry, and sometimes disorderly throng composed of persons living in the general neighborhood of the land affected. Their sheer numbers and demeanor carry an implicit threat of reprisal; and their comments frequently articulate the threat. It is a brave legislator who can affix his mind to the issues and ignore the pressures.[96]

One strategy for the use of the resource of numbers is evident in the foregoing quote. Mass numbers or a delegation at the hearing may have an impact on amendment decisions.

Another author views public hearings on zoning matters as an "oriental bazzar" where

> Too often decisions are not based on facts or master plans, but on the pressures of bitterly complaining or approving neighborhood improvement associations who are coming out of every rock, packing council chambers and snowing commissions with petitions.[97]

In this quote may be seen another strategy, that of petitioning. A distinction should be made between the legally binding petition provided for in the Standard Act and informal petition of neighbors protesting an amendment. The first type of petition has a formal impact on the decision making process by requiring an unusual majority of the

---

[96]Anderson, *American Law of Zoning*, Vol. 1, pp. 190-91.

[97]Richard E. Michalski, "Zoning--The National Peril," in *Planning 1963*, American Society of Planning Officials (Chicago: American Society of Planning Officials, 1963), p. 64.

local legislative body to pass the amendment. This type of petition is not discussed extensively in the literature. The second type of petition seems to be more common but has no formal impact on the decision making process.

Another resource that the neighborhood may utilize is the services of a lawyer. Since legal counsel is expensive, and since the neighborhood does not usually gain monetarily from opposing an amendment proposal, it may be assumed that legal councel will not be used very often by the opponents to an amendment. However, if a lawyer is also residing in a neighborhood some of his strategies may also be used.

Clan Crawford provides a lawyer's suggestions for strategies that may be used by the neighborhood in the amendment process. He takes note of the previously described strategies of using a delegation at the public hearing[98] and using petitions,[99] and he also describes some other strategies that might be effective. One is direct contact with the decision makers. He states:

> . . . you may want to have a number of the neighbors contact each councilman, even if some of the contacts are by telephone. By and large, if legislators think that many of their constituents are upset about a proposed law, they will not vote for it.[100]

Another strategy that the neighborhood may utilize is to organize and adopt a name "which proclaims their altruistic purposes, avoiding such terms as 'property owners' which might suggest that they are acting for selfish reasons."[101]

---

[98] Crawford, *Strategies and Tactics*, p. 117.

[99] *Ibid.*, p. 109.

[100] *Ibid.*, p. 107.

[101] *Ibid.*, p. 148.

Studies of the actual impact of neighborhood opposition on amendment decisions are few. Walker, studying the structure of planning in local government, found that interests outside of the planning commission did not have much of an impact on decisions.[102] Willhelm, studying the social values held by decision makers in Austin, Texas, also found that interests outside of the planning commission had little effect. However, he qualified this as follows:

> While the social value orientations of commission members apparently give little importance to expressions by participating individuals, in reality there are times when commissioners seek to abate the outcries of property owners through protective measures. This is the procedure followed when a zoning change is granted for a piece of property attached to a well-developed residential area. In this event, the applicant will be required to accede to protective considerations by sealing off one land use from another. This device is known as screening. . . . In this manner the particular objections of protesting residential property owners receive a degree of considerations in zoning decisions.[103]

In commenting on city council actions, Willhelm found that political considerations played a more substantial role in council decisions. In the city council, social value orientations were tempered by considerations of opposition, direct personal contacts, favoritism towards certain individuals, and considerations of increased taxes.[104]

---

[102] Walker, *Planning Function*, p. 149.

[103] Willhelm, *Urban Zoning*, pp. 129-30.

[104] *Ibid.*, pp. 130-29.

D. SUMMARY

This chapter has presented a conceptual framework for studying the politics of zoning. This framework is organized aroung the concept of conflict. The major conflict found in zoning is a gain-preservation conflict involving economic gain and residential preservation. Other conflicts involve individual goals conflicting with the planning ideal of the public interest, and the not so prominent conflict between immediate goals and future goals.

In mediating conflict, it was shown that the local government plays a distinctly political role. The conflicts in zoning, as they impinge on the governmental system, give rise to political activity by the participants in the conflict. Five questions were posed to guide the study of this political activity. The questions pertained to the actors in the zoning system, the stakes and political resources of the actors, the strategies used by the actors to influence decisions on zoning, and the effectiveness of the strategies.

The main hypothesis of this thesis is that neighborhood political activity affects the outcome of zoning decisions. In studying the adoption of the New York zoning ordinance it was found that the neighborhood did have an effect on the final outcome. In studying the amendment process the findings were less clear. Two authors noted that outside interests and activities did not have much impact on decisions in the governmental bodies concerned with zoning. However, one of the authors did note that neighborhood activity had an effect in certain special instances before the planning commission. It was also noted

that political activity has a greater impact on city council decisions.

The next chapter presents an original case study of neighborhood political activity. The case study focuses on the zoning amendment process in Knoxville, Tennessee.

CHAPTER IV

CASE STUDY OF KNOXVILLE, TENNESSEE

A. INTRODUCTION

As was mentioned in the previous chapter, there are at least five possible strategies that may be used by neighborhoods to influence governmental decisions in the amendment process: the use of a neighborhood organization, petition, delegation at the public hearing, personal contact with the decision makers, and the use of a lawyer. This chapter presents findings on the use of these strategies and their relation to zoning decisions in Knoxville, Tennessee.

To accomplish this study, 170 amendment cases were analyzed and interviews were conducted with selected neighborhood and governmental participants. The primary data sources for the 170 cases were the minutes and records of the Metropolitan Planning Commission of Knoxville—Knox County and the minutes of the Knoxville City Council for the two years beginning August 1972 and ending August 1974 inclusive.

One hundred and eighty amendment cases were discovered in the planning commission minutes. Ten cases were not utilized for analysis because they were initiated either by governmental agencies or, as in one case, by a whole neighborhood. These cases were rejected in the belief that they were unusual and would not be comparable with the other cases included for study.

Of the 170 cases utilized, 60 were found to involve neighborhood opposition. Neighborhood opposition was defined as any indication in

the minutes of the planning commission or city council of an individual or group opposing a proposed amendment. An attempt was made to contact and interview an opposition participant in each of the 60 cases. Of the 60 possible interviews, 42 were contacted and produced usable results. The other 18 either could not be contacted, did not remember the case or would not consent to an interview.

Of the 170 cases from the planning commission minutes, 127 cases were heard and decided in city council during the study period. Of the 127 cases, 21 were found to involve neighborhood opposition. The city recorder did not usually record the incidence of opposition to amendments in the city council minutes. Only eleven cases of opposition were recorded in the minutes. The other ten were ascertained from interviews with opposition participants listed in the minutes of the planning commission. It should be noted this lack of recorded opposition cases in the city council minutes could bias the findings of this study pertaining to city council.

Interviews with the neighborhood opposition participants were conducted by telephone during the month of December 1974. The interview schedule used is presented in Appendix A. The main purpose of these interviews was to discover the strategies used by the neighborhood opposition to influence planning commission and city council decisions.

Personal interviews were conducted with the executive director of the planning commission, six members of the planning commission, and four members of the city council. The persons selected to be interviewed from the planning commission were the chairman of the planning commission

(who resigned April 1974), the senior member and four other members selected on the basis of having made the most motions on amendments. The four members of city council who were interviewed were selected on the basis of having made the most motions on amendments before city council. All interviews were conducted during the month of December 1974 using the respective interview schedules presented in Appendix A. The main purposes of these interviews were to discover the general operation of zoning in Knoxville, discover any changes in zoning operation during the study period, and discover the governmental actors' perceptions of the effectiveness of the five neighborhood strategies.

In addition to the above interviews, one other personal interview was conducted with the reporter of the Knoxville News-Sentinel who covered city council and planning commission activities. This interview was conducted during the month of December 1974 and the interview schedule used is presented in Appendix A. This interview was conducted for the purpose of obtaining insights into the actual operations of zoning in Knoxville.

B. THE STRUCTURE AND OPERATION OF ZONING IN KNOXVILLE

According to the 1970 census, Knoxville had a population of 174,587.[1] At the time of the study, the city has a home rule charter

---

[1] U. S. Bureau of the Census, *Census of Population: 1970* (Washington, D. C.: Government Printing Office, 1972).

and a mayor-council form of government known as a strong mayor system.[2] The city council is made up on nine members, six elected by districts and three elected at large in a nonpartisan form of elections.

The city enacted its zoning ordinance under provisions of Tennessee state enabling legislation concerning municipal zoning regulations.[3] The enabling legislation is similar to the Standard State Zoning Enabling Act discussed in Chapter II, with one important exception. The section on amendments states:

> The zoning ordinance, including the maps may from time to time be amended; but no amendment shall become effective unless it is first approved by the planning commission or, if disapproved, shall receive the favorable vote of a majority of the entire membership of the chief legislative body.[4]

No mention is made of the 20 percent protest allowed in the Standard Act. Thus, access of the neighborhood to decisions in the amendment process is more limited than it might be were zoning adopted under legislation similar to the Standard Act. Another point to note is that the planning commission is granted certain power by the provision requiring a majority of the entire membership of city council for its recommendation to be overruled.

The ordinance in effect during the study period was ordinance 3369 adopted in 1963. Previous to the 1963 ordinance, zoning was based on a

---

[2]Walter N. Lambert, *Governments in Knox County* (Knoxville: University of Tennessee Bureau of Public Administration, 1965), p. 6.

[3]Tennessee, *Tennessee Code Annotated* (1973), secs. 13-701--13-716, pp. 312-20.

[4]*Ibid.*, sec. 13-704, p. 315.

pyramid plan wherein all zones below residential could cumulatively include the uses permitted in the zones above. The 1963 ordinance was based on an exclusive zoning plan wherein only specified uses were permitted in each zone.[5] The zoning ordinance in effect at the time of the study period contained 24 types of zoning district regulations (see Table 17 in Appendix B).

The structure of enforcement and administration of the ordinance consists of an administrative officer (the building inspector) and the Metropolitan Planning Commission. The planning commission reviews and decides uses permitted on review (the same as special permits discussed in Chapter II), reviews and makes recommendations on all proposed amendments, and, as an internally appointed seven member board, acts as a board of appeals.[6]

The planning commission is not technically a part of Knoxville city government. It receives its authority from and is responsible directly to the state planning commission. It is granted its authority under state planning enabling legislation for regional planning commissions[7] and has authority in planning and land use regulations over the entire area of Knox County including the City of Knoxville. It receives its financing from the city and the county governments

---

[5]Lambert, *Governments in Knox County*, pp. 127-28.

[6]Knoxville, Tennessee, *The Zoning Ordinance of the City of Knoxville, Tennessee* (1974), Art 7, sec. 1, pp. 203-04.

[7]Tennessee, *Tennessee Code Annotated*, secs. 13-201--13-212, pp. 284-90.

and through federal grants.[8]

During the study period, the membership of the planning commission was composed of 13 citizen lay members and two elected members from Knox County Court. All members were appointed subject to approval of the state planning commission; eight being appointed by the mayor of Knoxville and seven being appointed by the Knox County Commission.

The planning commission carries on a two part program. One part is long range planning for the entire region of Knox County. The other part is implementation which includes zoning and subdivision controls.[9] A 1964 study conducted by the American Society of Planning Officials found that the Metropolitan Planning Commission spent 80 percent of its time on zoning matters, 10 percent of its time on subdivision controls, and only 10 percent of its time on planning.[10] This time spent on zoning was far above the average of 41 percent found in all 443 planning agencies studied.[11]

Applications for amendments are filed with the planning commission operations office at least 25 days prior to the regularly scheduled planning commission meetings. All planning commission meetings are held on the second Thursday of each month at which time all proposed amendments

---

[8]Lambert, *Governments in Knox County*, p. 126.

[9]*Ibid.*, p. 127.

[10]American Society of Planning Officials, *The Planning Commission*, p. 23.

[11]*Ibid.*, p. 3.

are considered along with requests for variances, use on reviews, requests for street and alley closures, subdivision plot reviews and other related planning matters.

During the time between application and hearing, all amendments are studied by the planning staff and other interested agencies and a planning staff recommendation is formulated. The staff recommendation is based on studies of the immediate area, reviews and comments of other agencies, considerations of schools, recreation facilities, transportation, water, sewer, and other area and site factors, and conformance of the amendment with small area studies and plans and the 1990 general plan.

Fifteen days before the hearing, the property under consideration is posted and a notice is given in a daily newspaper. The planning commission members usually receive the study on the proposed amendment and the written staff recommendation the Saturday before the Thursday hearing. On the Tuesday before the Thursday hearing, the staff conducts a workshop on all requests for those commissioners wishing to attend and ask questions. Those commissioners who wish to can also view the site with a staff member.

At the Thursday hearing, each amendment is presented to the commission for action. The amendment petitioner is allowed to speak first and answer questions posed by the commission members. Following this, any other interested parties are permitted to voice approval or opposition. After this the staff is usually asked to state its recommendation on the amendment.

The commission then votes on the amendment taking any one of five actions. The commission can either recommend to approve the amendment as proposed, approve the amendment subject to stated conditions,[12] modify and approve the amendment by changing the type of zone requested, vote to deny the amendment, allow the amendment petition to be withdrawn, or vote to postpone the amendment for consideration at a later date.

If the petition is recommended for approval either as proposed or with conditions or modifications, it is automatically sent to the city law director's office for scheduling on the city council agenda. The same information sent to the planning commissioners is sent to the city council members with the addition of the planning commission recommendation and vote on the proposal. The city council then considers the proposal at a public hearing held during its regularly scheduled meeting time.

If the amendment is denied in the planning commission the amendment petitioner has an option of appealing the decision to city council. The petitioner can also appeal any recommendations for conditions or modification of the originally proposed amendment.

For an amendment to be enacted as an ordinance, the proposal usually has to go through two readings and votes. Exceptions to this

---

[12]For a discussion of the use and legality of conditional zoning, see: Enos P. Schaffer, "Contract Zoning and Conditional Zoning," *Zoning Digest* 17 (November, 1965), pp. 345-354.

are certain amendments passed as emergency ordinances on first reading. At the hearing, the city council can take any one of six actions on the proposed amendment either acting on a recommended approval or on an appeal. The city council can either affirm the planning commission recommendation; place either new or additional conditions on the recommended amendment; overrule the planning commission recommendation; approve the appeal, thus overruling the planning commission; deny the appeal, thus affirming the planning commission; or allow the appeal to be withdrawn.

There were some changes in the environment of the amendment process shortly before or during the study period that may have had some effect on the way amendments were decided during the study period. Approximately six months before the study period began the planning commission employed a new executive director to replace the previous executive director who retired. It was reported in the interviews with the governmental participants that the new executive director was a more skillful administrator than the previous executive director and had done a great deal to make planning operations, including zoning, more professional.

A very recent trend in neighborhood activity was reported in many of the governmental participant interviews. It was reported that neighborhood opposition started to increase as much as five years previous to the interview dates and peaked during the study period. Reasons given for this generally stressed the observation that Knoxville and Knox County were "booming" with land development. It was mentioned on several occasions that the neighborhoods, especially in West Knoxville

and Knox County, felt threatened by the increasing development activity and thus began to oppose amendments more often than in the past.

Another trend, related to the above, was also discovered during the interviews. This trend concerned neighborhood organizations. Either shortly before or during the study period the neighborhoods, especially in West Knoxville and West Knox County, began to organize into ongoing neighborhood associations.

It was within the above structure and environment that zoning amendments were considered and decided during the study period. The next section presents hypotheses that were tested in this thesis using data collected on the 170 amendment proposals.

C. HYPOTHESES

Two levels of hypotheses are utilized in this thesis. Both levels relate to the central hypothesis of this thesis which is: neighborhood political activity affects the outcome of zoning decisions. The first level of hypothesis utilizes data on the incidence of opposition in the planning commission and city council. Neighborhood opposition is viewed as a political behavior used to influence issue outcomes on specific amendments. The hypothesis tested at this level is: neighborhood opposition has an effect on the outcome of zoning decisions.

The second level of hypothesis utilizes data on the component strategies of opposition. Each strategy is viewed as a political behavior which can be used to influence issue outcomes on specific amendments. The strategies studied are: use of a neighborhood organization,

use of a petition, use of a delegation at the public hearing, use of personal contacts with decision makers, and the use of a lawyer. The general hypothesis tested at this level is: the use of a specified strategy has an effect on the outcome of zoning decisions.

Each hypothesis is tested first by cross-tabulating the presence or absence of opposition of the use or nonuse of strategies with zoning decision outcomes to show the correlation between the variables. It is assumed that there should be an inverse relationship in zoning decision outcomes between the presence or absence of opposition or between the use or nonuse of strategies. With the presence of opposition or the use of a strategy, there should be more denials of amendments and less approvals than if opposition were absent or the strategy not used. If this relationship does not hold, then the hypothesis would tend not to be confirmed.

The hypothesis is tested a second time by using the results of interviews with the governmental actors. In this test, any clear indication by the majority of the respondents that the presence of opposition or the use of a strategy affects their decisions on zoning would tend to confirm the hypothesis.

The two tests are then compared in deciding whether or not the hypothesis is confirmed. If the two tests tend to confirm the hypothesis, then it is concluded that the hypothesis is true or confirmed. If, on the other hand, one or both of the tests tend not to confirm the hypothesis, the hypothesis is considered false, or not confirmed.

The hypotheses are tested for the planning commission and city council separately and are then compared to draw conclusions concerning the central hypothesis.

D. FINDINGS

In testing the first level hypothesis that neighborhood opposition has an effect on zoning decisions, planning commission decisions will be considered first. It appears from Table 1 that neighborhood opposition does have an effect on decisions in the planning commission. When neighborhood opposition is present, amendments are approved in only 16.7 percent of the cases while being denied in 50.0 percent of the cases. In contrast, when opposition is absent, the relationship is reversed with the planning commission recommending approval in 63.6 percent of the cases and denial in only 14.6 percent of the cases.

This relationship may, however, not reflect the true impact of neighborhood opposition. When compared to the relationship of the planning staff recommendation to the planning commission recommendation presented in Table 2, it may be seen that the planning staff recommendation is a much better indicator of the planning commission decision. With regard to approvals, the staff recommendation was followed in 92.8 percent of the cases, and with denials, the staff recommendation was followed in 84.7 percent of the cases.

When the element of opposition is introduced, however, this relationship does not hold. In Table 3 it is shown that with opposition present, petitions were denied over the staff recommendation for approval

Table 1. Tabulation of Planning Commission Recommendation by Presence And Absence of Neighborhood Opposition (Frequency and Percent)

Planning Commission Recommendation	Neighborhood Opposition			
	Present		Absent	
	f	%	f	%
Approve	10	16.7	70	63.6
Condition	8	13.3	6	5.4
Modify	5	8.3	16	14.6
Deny	30	50.0	16	14.6
Petition Withdrawn	7	11.7	2	1.8
TOTAL	60	100.0	110	100.0

Source: Compiled from the Minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee.

Table 2. Tabulation of Planning Commission Recommendation by Planning Staff Recommendation (Frequency and Percent)

Planning Commission Recommendation	Planning Staff Recommendation									
	Approve		Condition		Modify		Deny		None	
	f	%	f	%	f	%	f	%	f	%
Approve	64	92.8					4	8.7	12	52.2
Condition	2	2.9	10	100.0			1	2.2	1	4.3
Modify					19	86.4	1	2.2	1	4.3
Deny	3	4.3			3	13.6	39	84.7	1	4.3
Petition Withdrawn							1	2.2	8	34.9
TOTAL	69	100.0	10	100.0	22	100.0	46	100.0	23	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee.

Table 3. Tabulation of Planning Commission Recommendation by Planning Staff Recommendation by Presence and Absence of Neighborhood Opposition (Frequency and Percent)

Planning Commission Recommendation	Planning Staff Recommendation																	
	Approve				Condition				Modify				Deny				None			
	O/P[a]		O/A[b]		O/P		O/A		O/P		O/A		O/P		O/A		O/P		O/A	
	f	%	f	%	f	%	f	%	f	%	f	%	f	%	f	%	f	%	f	%
Approve	7	58.3	57	100											4	20.0	3	25.0	9	81.8
Condition	2	16.7			4	100	6	100					1	3.8			1	8.3		
Modify									3	50.0	16	100	1	3.8			1	8.3		
Deny	3	25.0							3	50.0			23	88.6	16	80.0	1	8.3		
Petition Withdrawn													1	3.8			6	50.1	2	18.2
TOTAL	12	100	57	100	4	100	6	100	6	100	16	100	26	100	20	100	12	100	11	100

[a]O/P = Opposition Present

[b]O/A = Opposition Absent

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee.

in 25.0 percent of the cases as compared to no cases of denial when opposition was absent. Also, important to note is the finding that with opposition absent, the staff recommendation on approval is accepted in 100.0 percent of the cases compared to only 58.3 percent in cases where opposition is present. In the case of denials it might be assumed that the staff recommendation would carry more weight with opposition present than with opposition absent. The findings tend to support this. Staff recommendation for denial is followed more often with opposition present than with opposition absent.

These findings for the planning commission tend to confirm the hypothesis that neighborhood opposition has an effect on the outcome of zoning decisions.

In addition to the above findings, interviews with the planning commissioners also tend to confirm the hypothesis. Without exception it was reported that neighborhood opposition had an effect on decisions. This was generally qualified by statements that the neighborhood was given consideration only in those cases which might be termed "borderline." A "borderline" case was described as a case where either the staff indicated to the commissioners that its recommendation was not the only acceptable alternative, or the commission members themselves determined that the staff recommendation was not the only possible alternative. It was also reported in the interviews that the neighborhood might influence decisions by presenting new information that the staff may have overlooked.

Since the interviews and data analysis both substantiated the hypothesis it is concluded that neighborhood opposition does have an effect on zoning decisions in the planning commission.

The city council members interviewed generally stated that city council tried in most cases to follow the planning commission recommendation. The findings presented in Table 4 tend to confirm this. In affirming the planning commission decision, denying appeals from the commission decision, and allowing appeals to be withdrawn, the city council followed the planning commission recommendation in 83.5 percent of the cases.

This relationship, however, does not hold true when considering opposition cases. In Table 5, it may be seen that council denies amendments more and approved amendments less when opposition is present than when it is absent. When opposition is present, the council denies amendments in 61.9 percent of the cases and approves amendments in only 23.8 percent of the cases. In contrast, when opposition is absent, the relationship is reversed with council denying amendments in only 5.7 percent of the cases and approving amendments in 94.3 percent of the cases.

The findings from the data for the city council tend to confirm the hypothesis that neighborhood opposition effects the outcome of zoning decisions.

In addition, the interviews with city council members tend to confirm the hypothesis. It was indicated generally in all interviews that city council was more susceptible to pressure from the neighborhoods than was the planning commission. The council members themselves

Table 4. Tabulation of City Council Decision on Proposed Amendments (Frequency and Percent)

City Council Decision	f	%
Affirm Planning Commission Recommendation (Approve)	97	76.4
Condition Planning Commission Recommendation	2	1.6
Overrule Planning Commission Recommendation (Deny)	11	8.6
Approve Appeal of Planning Commission Recommendation (Approve)	8	6.3
Deny Appeal of Planning Commission Recommendation (Deny)	8	6.3
Allow Appeal to be Withdrawn	1	0.8
TOTAL	127	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and the minutes of the City Council of Knoxville, Tennessee.

Table 5. Tabulation of City Council Decision on Proposed Amendments by Presence and Absence of Neighborhood Opposition (Frequency and Percent)

City Council Decision	Neighborhood Opposition			
	Present		Absent	
	f	%	f	%
Affirm Planning Commission Recommendation (Approve)	3	14.3	94	88.7
Condition Planning Commission Recommendation	2	9.5		
Overrule Planning Commission Recommendation (Deny)	7	33.3	4	3.8
Approve Appeal of Planning Commission Recommendation (Approve)	2	9.5	6	5.6
Deny Appeal of Planning Commission Recommendation (Deny)	6	28.6	2	1.9
Allow Appeal to be Withdrawn	1	4.8		
TOTAL	21	100.0	106	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and the minutes of the City Council of Knoxville, Tennessee, and interviews with neighborhood participants.

reported that they weighed the "human element," at times, over purely technical considerations. This human element seemed to involve a closer scrutiny of the arguments of both the ammendment petitioner and the neighborhood. All city council members indicated that neighborhood opposition did have an effect on city council decisions.

Since the interviews and data analysis both confirmed the hypothesis it may be concluded that neighborhood opposition does have an effect on zoning decisions in city council.

Since the hypothesis was confirmed by findings for both the planning commission and city council, it may be generally concluded that neighborhood opposition does have an effect on zoning decisions. Since opposition is a political behavior, the central hypothesis of this thesis that neighborhood political activity affects the outcome of zoning decisions is confirmed.

It is now appropriate to consider the separate strategies of opposition. Each strategy will be considered separately and the findings will be compared.

The first strategy considered is the use of a neighborhood organization. For the purpose of this thesis, neighborhood organization is defined as an ongoing organization having an identifying name. This type of neighborhood organization is distinguished by definition from ad hoc neighborhood organizations which form because of one amendment issue and then disband.

It might be assumed that an ongoing organization can more readily and effectively utilize its resources for influencing decisions. For

this reason, it is hypothesized that the use of neighborhood organization has an effect on the outcome of zoning decisions.

In the planning commission, this hypothesis tends not to be confirmed by the data analysis. The findings presented in Table 6 show that the planning commission actually denied amendments more often and approved amendments less often when the strategy was not used than when it was used.

The interviews with the planning commissioners disclosed a divergence of opinion on the effectiveness of the neighborhood organization strategy. Three commissioners indicated that neighborhood organizations had little or no effect and three commissioners indicated that neighborhood organizations had some or definite effect on decisions. Since there was no clear majority of opinion, the hypothesis tends not to be confirmed by interview.

With the two tests tending not to confirm the hypothesis, it may be concluded that the use of a neighborhood organization does not have a significant effect on the outcome of zoning decisions in the planning commission.

In the city council the hypothesis tends not to be confirmed by the data analysis. As may be seen in Table 7, amendments were denied in 60 percent of the cases when a neighborhood organization was used and denied equally as often when a neighborhood organization was not used. Also, amendments were approved in 40 percent of the cases when a neighborhood organization was used as compared to only 20 percent in cases when no neighborhood organization was used.

Table 6. Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Neighborhood Organization (Frequency and Percent)

Planning Commission Recommendation	Neighborhood Organization			
	Used		Not Used	
	f	%	f	%
Approve	3	27.3	4	12.9
Condition	2	18.2	3	9.6
Modify	1	9.1	2	6.5
Deny	5	45.4	20	64.5
Petition Withdrawn			2	6.5
TOTAL	11	100.0	31	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and interviews with participants in neighborhood opposition cases.

Table 7. Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Neighborhood Organization (Frequency and Percent)

City Council Decision	Neighborhood Organization			
	Used		Not Used	
	f	%	f	%
Affirm Planning Commission Recommendation (Approve)	1	20.0	2	20.0
Condition Planning Commission Recommendation			1	10.0
Overrule Planning Commission Recommendation (Deny)	2	40.0	2	20.0
Approve Appeal of Planning Commission Recommendation (Approve)	1	20.0		
Deny Appeal of Planning Commission Recommendation (Deny)	1	20.0	4	40.0
Allow Appeal to be Withdrawn			1	10.0
TOTAL	5	100.0	10	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and the minutes of the City Council of Knoxville, Tennessee, and interviews with neighborhood participants.

All of the council members interviewed stated that neighborhood organizations did have an effect on their decisions. Thus, the hypothesis would tend to be confirmed by interviews.

Since there was a difference in the findings using the data analysis and interviews, it may not be concluded that the use of a neighborhood organization has an effect on the outcome of zoning decisions in city council.

Since the hypothesis was not confirmed by findings for either the planning commission or city council, it may not be generally concluded that the use of a neighborhood organization has an effect on the outcome of zoning decisions. Since the use of a neighborhood organization is a political behavior, the central hypothesis of this thesis that neighborhood political activity affects the outcome of zoning decisions is not confirmed by these findings.

The next strategy considered is the use of a petition. The petitions used in the amendment cases of this study were not the legally binding 20 percent protest petitions discussed in Chapter II. Rather, they were merely informal statements of opposition in writing signed by a number of residents in the neighborhoods affected.

Since the use of a petition is one means of showing opposition, it is hypothesized that the use of a petition has an effect on the outcome of zoning decisions.

In the planning commission this hypothesis tends to be confirmed by the data analysis. The findings presented in Table 8 show that the planning commission denied amendments more often and approved amendments

Table 8. Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Petition (Frequency and Percent)

Planning Commission Recommendation	Petition			
	Used		Not Used	
	f	%	f	%
Approve	3	13.0	4	21.1
Condition	3	13.0	2	10.5
Modify	1	4.4	2	10.5
Deny	15	65.2	10	52.6
Petition Withdrawn	1	4.4	1	5.3
TOTAL	23	100.0	19	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and interviews with participants in neighborhood opposition cases.

less often when petitions are used by the neighborhood opposition than when petitions are not used.

The interviews with the planning commissioners disclosed that they do not generally consider petitions to be effective. The ones who perceived petitions as being slightly effective conditioned their remarks with statements to the effect that they could not rely on petitions to show the true extent of neighborhood opposition. The reasons given for this were that some petitions contain names of individuals not living in the immediate neighborhood, and most people will sign a petition even though they may not actually oppose the proposed amendment. The interviews, therefore, do not confirm the hypothesis.

Since there was a difference in the findings between the data analysis and the interviews it may be concluded that the use of petitions does not have a significant effect on the outcome of zoning decisions in the planning commission.

In the city council the hypothesis tends to be confirmed by the data analysis. Findings presented in Table 9 show that amendments were denied in 75.0 percent of the cases when petitions were used and denied in 42.9 percent of the cases when petitions were not used. In no instances were amendments approved when petitions were used as compared to 57.1 percent of the cases when petitions were not used.

The interviews with the council members disclosed that three of the four council members think petitions do have an effect but all three conditioned their remarks with statements similar to those found

Table 9. Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Petition (Frequency and Percent)

City Council Decision	Petitions Used f	Used %	Not Used f	Not Used %
Affirm Planning Commission Recommendation (Approve)			3	42.8
Condition Planning Commission Recommendation	1	12.5		
Overrule Planning Commission Recommendation (Deny)	3	37.5	1	14.3
Approve Appeal of Planning Commission Recommendation (Approve)			1	14.3
Deny Appeal of Planning Commission Recommendation (Deny)	3	37.5	2	28.6
Allow Appeal to be Withdrawn	1	12.5		
TOTAL	8	100.0	7	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and the minutes of the City Countil of Knoxville, Tennessee, and interviews with neighborhood participants.

in the interviews with planning commission members. Since three of the four council members did state that petitions had an effect, the hypothesis is confirmed in the interviews.

Since both interviews and data analysis confirmed the hypothesis it may be concluded that the use of petitions does have an effect on the outcome of zoning decisions in city council.

Since the hypothesis was not confirmed by the findings in the planning commission, it may not be generally concluded that the use of petitions has an effect on the outcome of zoning decisions. However, since the hypothesis was confirmed by findings in the city council, and since the use of petitions is a political behavior, the central hypothesis of this thesis that neighborhood political activity affects the outcome of zoning decisions is confirmed.

The next strategy considered is the use of a delegation at the public hearings. A delegation at the public hearings is defined as the presence of one or more neighborhood members making an effort to show their opposition to a proposed amendment at the public hearing.

Since a delegation at the public hearing physically represents neighborhood opposition to an amendment, it is hypothesized that the use of a delegation at the public hearing has an effect on the outcome of zoning decisions.

In the planning commission this hypothesis tends to be confirmed by the data analysis. The findings presented in Table 10 show that amendments were denied more and approved less when a delegation was used than when a delegation was not used. It is also interesting to note that this strategy was the one most frequently used by the neighborhood.

Table 10. Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Delegation at Hearing (Frequency and Percent)

Planning Commission Recommendation	Delegation at Hearing			
	Used		Not Used	
	f	%	f	%
Approve	5	13.2	2	50.0
Condition	5	13.2		
Modify	3	7.9		
Deny	23	60.5	2	50.0
Petition Withdrawn	2	5.2		
TOTAL	38	100.0	4	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and interviews with participants in neighborhood opposition cases.

The interviews with the planning commissioners disclosed that four out of six of the commission members felt that a delegation at the public hearing had an effect on decisions. This would tend to confirm the hypothesis.

Since both interviews and data analysis confirm the hypothesis it may be concluded that the use of a delegation at the public hearing does have an effect on the outcome of zoning decisions in the planning commission.

In the city council, all but one case was reported to have used a delegation at the public hearing (see Table 11). Because of this, comparisons of the use and nonuse of this strategy would not be significant. Thus, it cannot be said that the hypothesis was either confirmed or not confirmed.

Since nothing could be inferred about the hypothesis from the data analysis, the interviews with the city council members were relied upon to test the hypothesis. Of the four council members interviewed, three stated that a delegation at the public hearing had a definite effect on decisions while one stated that it had only a slight effect. This would tend to confirm the hypothesis.

Since the hypothesis was confirmed in the findings in both the planning commission and city council, it may generally be concluded that the use of a delegation at the public hearing does have an effect on the outcomes of zoning decisions. Since the use of a delegation at the public hearings is a political behavior, the central hypothesis of this thesis that neighborhood political activity affects the outcome of zoning decisions is confirmed by these findings.

Table 11. Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Delegation at Hearing (Frequency and Percent)

City Council Decision	Delegation at Hearing: Used f	Used %	Not Used f	Not Used %
Affirm Planning Commission Recommendation (Approve)	2	14.3	1	100.0
Condition Planning Commission Recommendation	1	7.1		
Overrule Planning Commission Recommendation (Deny)	4	28.6		
Approve Appeal of Planning Commission Recommendation (Approve)	1	7.1		
Deny Appeal of Planning Commission Recommendation (Deny)	5	35.8		
Allow Appeal to be Withdrawn	1	7.1		
TOTAL	14	100.0	1	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and the minutes of the City Council of Knoxville, Tennessee, and interviews with neighborhood participants.

The next strategy considered is the use by the neighborhood opposition of personal contact with the decision makers. Personal contact with the decision makers is defined as either a telephone call or face-to-fact contact with any decision makers in the planning commission or city council, respectively, for the purpose of voicing opposition. It is hypothesized that use of personal contact has as effect on the outcome of zoning decisions.

In the planning commission the hypothesis tends not be confirmed by the data analysis. The findings presented in Table 12 show that amendments were denied in approximately an equal percentage of the cases whether or not the neighborhood opposition used direct contact with the decision makers or not. The relationship of less approvals with opposition would tend to confirm the hypothesis. But since the analysis of denials disagrees, the hypothesis tends not to be confirmed.

The interviews with the planning commissioners disclosed a divergence of opinion on whether or not direct contact has an influence on decisions. Three commissioners stated that direct contact had no effect on decisions. Two commissioners stated that direct contact had some effect and one commissioner stated that it was the best way to influence decisions. The interviews tend not to confirm the hypothesis.

With the two tests tending not to confirm the hypothesis, it may be concluded that the use of personal contact with the decision makers does not have a significant effect on the outcome of zoning decisions in the planning commission.

Table 12. Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Personal Contact (Frequency and Percent)

Planning Commission Recommendation	Personal Contact			
	Used		Not Used	
	f	%	f	%
Approve	3	13.6	4	20.0
Condition	3	13.6	2	10.0
Modify	1	4.6	2	10.0
Deny	13	59.1	12	60.0
Petition Withdrawn	2	9.1		
TOTAL	22	100.0	20	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and interviews with participants in neighborhood opposition cases.

In the city council, all but one case was reported to have used personal contact with the decision makers (see Table 13). Because of this, comparisons of the use and nonuse of this strategy would not be significant. Thus, it cannot be said that the hypothesis was either confirmed or not confirmed.

Since nothing could be inferred about the hypothesis from the data analysis, the interviews with the city council members were relied upon to test the hypothesis. Three respondents indicated that personal contacts were effective and one respondent state that personal contacts were not effective. This would tend to confirm the hypothesis.

Since the hypothesis was not confirmed in the planning commission, it may not be generally concluded that the use of personal contacts has an effect on the outcome of zoning decisions. However, since the hypothesis was confirmed by findings in the city council, and since the use of personal contact with a decision maker is a political behavior, the central hypothesis of this thesis that neighborhood political activity affects the outcome of zoning decisions is confirmed.

The last strategy considered is the use of a lawyer. Since the lawyer is considered an expert in legal procedure, and since this expertise may be used by his client to influence decisions, it was assumed that the use of a lawyer has an effect on the outcome of zoning decisions.

In the planning commission, the hypothesis tends not to be confirmed by the data analysis. The findings presented in Table 14 show that amendments were denied in approximately an equal percentage of the cases whether or not a lawyer was used. Also, amendments were

Table 13. Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Personal Contact (Frequency and Percent)

City Council Decision	Personal Contact			
	Used		Not Used	
	f	%	f	%
Affirm Planning Commission Recommendation (Approve)	3	21.5		
Condition Planning Commission Recommendation	1	7.1		
Overrule Planning Commission Recommendation (Deny)	4	28.6		
Approve Appeal of Planning Commission Recommendation (Approve)	1	7.1		
Deny Appeal of Planning Commission Recommendation (Deny)	4	28.6	1	100.0
Allow Appeal to be Withdrawn	1	7.1		
TOTAL	14	100.0	1	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and the minutes of the City Council of Knoxville, Tennessee, and interviews with neighborhood participants.

Table 14. Tabulation of Planning Commission Recommendation by Use and Nonuse of Neighborhood Opposition Strategy--Lawyer (Frequency and Percent)

Planning Commission Recommendation	Lawyer			
	Used		Not Used	
	f	%	f	%
Approve	1	20.0	6	16.2
Condition			5	13.5
Modify			3	8.1
Deny	3	60.0	22	59.5
Petition Withdrawn	1	20.0	1	2.7
TOTAL	5	100.0	37	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and interviews with participants in neighborhood opposition cases.

approved in 20.0 percent of the cases when a lawyer was used, as compared to 16.2 percent of the cases when a lawyer was not used.

The interviews with the planning commissioners disclosed that four commission members felt that the use of a lawyer had no effect on decisions, while two commissioners stated that the formal and rational presentation by the lawyer of his client's case might have an effect on decisions. The findings from the interviews tend not to confirm the hypothesis.

Since both tests tended not to confirm the hypothesis, it may be concluded that the use of a lawyer does not have a significant effect on the outcome of zoning decisions in the planning commission.

In the city council, in only one case was a lawyer used (see Table 15). Because of this, comparisons of the use and nonuse of this strategy would not be significant. Thus, it cannot be said that the hypothesis was either confirmed or not confirmed.

Since nothing could be inferred about the hypothesis from the data analysis, the interviews with the council members were relied upon to test the hypothesis. The interviews disclosed a divergence of opinions. Two council members stated that the use of a lawyer had very little or no effect and two stated that the use of a lawyer did have some effect. The two who stated that this strategy did have some effect noted that a lawyer can make discussions on a zoning issue more rational by giving factual arguments. Since there was no clear indication of the effectiveness of this strategy from the interviews, the hypothesis tends not to be confirmed.

Table 15. Tabulation of City Council Decision on Proposed Amendments by Use and Nonuse of Neighborhood Opposition Strategy--Lawyer (Frequency and Percent)

City Council Decision	Lawyer Used f	Lawyer Used %	Lawyer Not Used f	Lawyer Not Used %
Affirm Planning Commission Recommendation (Approve)			3	21.5
Condition Planning Commission Recommendation	1	100.0		
Overrule Planning Commission Recommendation (Deny)			4	28.6
Approve Appeal of Planning Commission Recommendation (Approve)			1	7.1
Deny Appeal of Planning Commission Recommendation (Deny)			5	35.7
Allow Appeal to be Withdrawn			1	7.1
TOTAL	1	100.0	14	100.0

Source: Compiled from the minutes of the Metropolitan Planning Commission of Knoxville-Knox County, Tennessee, and the minutes of the City Council of Knoxville, Tennessee, and interviews with neighborhood participants.

Since the hypothesis was not confirmed in either the planning commission or the city council, it may be concluded that the use of a lawyer does not have a significant effect on the outcome of zoning decisions. Since the use of a lawyer is a political behavior of neighborhood opposition, the central hypothesis of this thesis that neighborhood political activity affects the outcome of zoning decisions is not confirmed by the findings.

E. SUMMARY

Table 16 presents a tabular summary of the hypotheses and their tests. To aid interpretation of the table, a quick review of the hypotheses follows:

Central Hypothesis: Neighborhood political activity affects the outcome of zoning decisions

First Level Hypothesis: Neighborhood opposition has an effect on the outcome of zoning decisions (opposition hypothesis).

Second Level Hypotheses:

1. The use of a neighborhood organization has an effect on the outcome of zoning decisions (organization hypothesis).
2. The use of a petition has an effect on the outcome of zoning decisions (petition hypothesis).
3. The use of a delegation at the public hearing has an effect on the outcome of zoning decisions (delegation hypothesis).
4. The use of personal contact has an effect on the outcome of zoning decisions (personal contact hypothesis).

Table 16. Summary Tabulation of Tests of the Hypotheses

Hypotheses	Hypothesis Tested In: Planning Commission — By Data Analysis	Planning Commission — By Interview	Planning Commission — Conclusion	City Council — By Data Analysis	City Council — By Interview	City Council — Conclusion	Conclusion Concerning The Central Hypothesis
First Level Opposition Hypothesis	C[a]	C	C	C	C	C	C
Second Level Organization Hypothesis	N/C[b]	N/C	N/C	N/C	C	N/C	N/C
Petition Hypothesis	C	N/C	N/C	C	C	C	C
Delegation Hypothesis	C	C	C	N/A[c]	C	C	C
Personal Contact Hypothesis	N/C	N/C	N/C	N/A	C	C	C
Lawyer Hypothesis	N/C	N/C	N/C	N/A	N/C	N/C	N/C

[a] = Confirmed

[b] = Not Confirmed

[c] = Results for data analysis insignificant

5. The use of a lawyer has an effect on the outcome of zoning decisions (lawyer hypothesis).

The test of each separate hypothesis has a bearing on the central hypothesis in that each separate hypothesis is tested for an assumed political activity in zoning. Table 16 shows that tests for each separate hypothesis confirmed the central hypothesis in four out of the six tests.

The first level hypothesis is confirmed in all tests and strongly confirms the central hypothesis. The second level hypothesis had more mixed results but, taken as a whole, also confirmed the central hypothesis. The strongest confirmation comes from the delegation hypothesis which is confirmed in all tests, with the exception of one test deemed not applicable due to insignificant results. Confirmation for the central hypothesis also comes from the petition hypothesis and the personal contact hypothesis. This confirmation is not so strong since the confirmation is achieved in the tests for city council only. Two of the hypotheses gave no confirmation to the central hypothesis. These hypotheses are the organization hypothesis and the lawyer hypothesis.

In comparing results for the planning commission and city council separately, Table 16 shows that the hypotheses were confirmed more times in city council than in the planning commission tests. Four out of the six hypotheses were confirmed in city council tests while only two of the six hypotheses were confirmed in the planning commission tests.

CHAPTER V

SUMMARY AND CONCLUSIONS

Zoning is not only a technical process of plan implementation. Neither is zoning only a legal technique for separating conflicting land uses. Zoning is also a political process wherein competing interests vie to influence governmental land use decisions for their own purposes.

Prior to zoning, local governments had little influence on private land use decisions. With the advent of zoning local governments gained a broad ranging and powerful tool for controlling the private use of land. The use of this control is formally based on the police power principles of the protection of health, safety, morals, or general welfare in the public interest.

In the ideal view of the planner, the public interest should be objectively defined and amenable to technical implementation. This is the view of the planner concerning the relationship fo the comprehensive plan to the zoning ordinance. The relationship is one of objective embodiment of the public interest in the comprehensive plan, and the implementation of the plan by the technique of zoning.

The courts do not hold this to be true, and, in practice, neither do the decision makers in local governments. The courts view the zoning ordinance itself as the comprehensive plan. The formulation and amendment of this plan is a legislative duty delegated to local government by state enabling legislation and the courts are reluctant to question the intentions of local legislators in formulating and amending the zoning ordinance. Thus, local legislators have a wide range of discretion in making their decisions.

The role of local government is two-fold. One is to provide services to the people. The other is to mediate conflict. In mediating conflict, local government plays a political role.

In addition to the conflict of land use in zoning, there is also an underlying conflict of values which make zoning distinctly political. The main values which conflict in zoning are economic gain and residential preservation. In the economic gain value system, the main goal is to utilize land so as to obtain the greatest monetary benefit. In the residential preservation value, the goal is more social and focuses on providing amenities and protecting the character of the residential neighborhood.

When these two goals conflict in the zoning process, the local government assumes its role as a political mediator. In assuming the political role, the local governmental decision makers become the target of activities which are intended to influence decision outcomes. These activities are political behaviors of the actors in the process.

One of the actors in the process is the neighborhood. The neighborhood holds a special place in the philosophy of zoning. Much of zoning is based on the premise that residential neighborhoods should be protected from conflicting land uses that might destroy residential amenity. While zoning more clearly concerns the local government and the land owner, the neighborhood is also provided access to the decision making process at all levels in the legal structure of zoning. In fact, this access may be enhanced by provisions for a 20 percent protest which requires an unusual majority of the local legislative body to pass a zoning amendment.

With this access, the neighborhood has an assured avenue to influence decisions. The behaviors that the neighborhood uses to influence decisions may be termed political activities.

In studying the role of the neighborhood in zoning in a political perspective, questions concerning stakes, resources and strategies need to be answered, and the relationship of their activities to the outcome of zoning decisions should be explored. The stake of the neighborhood in zoning is social, that of protecting the residential character of the neighborhood. The main resource of the neighborhood is its numbers. Numbers, to a politician at least, means votes and this means leverage in political decisions on land use. With its insured access to the decision making process in zoning, the neighborhood may use its resources in various ways.

In the adoption of the zoning ordinance, and the comprehensive rezoning process, a previous study on the politics of zoning in New York City disclosed that the neighborhood used its resources in bargaining with other actors to influence the outcome of zoning decisions. Although it could not be concluded that the neighborhood won in any absolute way, it was concluded that, along with the other actors, the neighborhood did have an influence on political decisions in zoning.[1]

In studying the politics of the amendment process, the same stakes and resources of the neighborhood are still present. In the amendment process, the participation of the neighborhood is almost always in opposition to a proposed amendment that is perceived as a

---

[1]Makielski, *Politics of Zoning* (see also this thesis, Chapter III, pp. 36-43).

threat to the residential character and amenities of the neighborhood. In opposing an amendment, various strategies may be used. Among these are the use of a neighborhood organization, the use of petitions, the use of a delegation at the public hearing, the use of personal contacts with decision makers, and the use of the services of a lawyer.

One previous study bearing on the amendment process concluded that political activity did not have much impact on decision making in the planning commission, another actor in the amendment process.[2] Another study concluded the same for the planning commission, but conceded that politics does play a part in the decisions of the local legislative body.[3] These studies may not show the full extent of the role of politics in the amendment process. This may be due to the perspective of studies. The first study focused on the structural aspects of planning. The other study was a study of the social values finding application in zoning decisions. These approaches may have obscured the role of politics in zoning decisions.

Taking a political perspective in this thesis, it is found that politics does play a role in zoning. In a case study of Knoxville, Tennessee, it is found that neighborhood political activity does have an effect on the outcomes of zoning decisions in the amendment process.

This holds true in both the planning commission and the city council. However, it is found that in Knoxville, the planning commission is less responsive to most neighborhood political strategies

---

[2]Walker, *Planning Function*, p. 149.

[3]Willhelm, *Urban Zoning*, pp. 129-139.

than is the city council. The only strategy which shows success in both the planning commission and city council is the use of a delegation from the neighborhood at the public hearing on a zoning amendment.

It may be concluded from the findings of this thesis that zoning is a political process as well as a part of the technical planning process. Zoning is technical in that it is an implementation tool of planning and may be administered using objective, technical criteria and considerations. However, zoning has to function in a situation wherein the standards on which it is based are subject to challenges and different interpretations by those affected. These conflicts are mediated in a governmental setting wherein the different actors vie to protect their stakes by influencing the final decision. It is this behavior plus the responsiveness of the system to influence which makes zoning political.

BIBLIOGRAPHY

BIBLIOGRAPHY

Altshuler, Alan A. *The City Planning Process, A Political Analysis*, Ithaca: Cornell University Press, 1965.

American Society of Planning Officials. *Planning Advisory Service Information Report No. 115: Amending the Zoning Ordinance*. Chicago: American Society of Planning Officials, October 1958.

American Society of Planning Officials. *Planning Advisory Service Report No. 195: The Planning Commission--Its Composition and Function*. Chicago: American Society of Planning Officials, February 1965.

American Society of Planning Officials. *The Text of a Model Zoning Ordinance*. 3rd edition. with commentary by Fred H. Bair and Ernest R. Bartley. Chicago: American Society of Planning Officials, 1966.

American Society of Planning Officials. *Planning Advisory Service Report No. 240: Public Hearings, Controversy, and the Written Response*. Chicago: American Society of Planning Officials, November 1968.

Anderson, Robert M. *American Law of Zoning*. 4 vols. Rochester, N.Y.: The Lawyers Cooperative Publishing Company, 1968.

Babcock, Richard F. "The Chaos of Zoning Administration." *Zoning Digest* 12 (January, 1960): 1-4.

Babcock, Richard F. *The Zoning Game, Municipal Practices and Policies*. Madison: The University of Wisconsin Press, 1966.

Banfield, Edward C. *Political Influence*. New York: The Free Press of Glenco, 1961.

Banfield, Edward C., and James Q. Wilson. *City Politics*. Cambridge: Harvard University Press, 1963.

Bartram v. Zoning Commission of Bridgeport, 136 Conn. 89, 68 A. 2d 308 (1949).

Bassett, Edward M. *Zoning*. New York: Rssell Sage Foundation, 1936.

Black, Henry Campbell. *Blacks Law Dictionary*. St. Paul: West Publishing Company, 1951.

Catanese, Anthony James. *Planners and Local Politics*. Beverly Hills: Sage Publications, 1974.

Champion, Dean J. *Basic Statistics for Social Research.* Scranton: Chandler Publishing Company, 1970.

Conn, Paul H. *Conflict and Decision Making, an Introduction to Political Science.* New York: Harper and Row, Publishers, 1971.

Conway, Margaret M., and Frank B. Feigert. *Political Analysis.* Boston: Allyn and Bacon, Inc., 1972.

Crawford, Clan, Jr. *Strategy and Tactics in Municipal Zoning.* Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1969.

Eulau, Heinz. *The Behavioral Persuasion In Politics.* New York: Random House, 1963.

Fellmeth, Robert C. *Politics of Land.* New York: Grossman Publishers, 1973.

Golembiewski, Robert T., and others. *A Methodological Primer for Political Scientists.* Chicago: Rand McNally and Company, 1969.

Goodman, William I., and Eric C. Freund, editors. *Principles and Practice of Urban Planning.* Washington: International City Managers' Association, 1968.

Haar, Charles M. "In Accordance with a Comprehensive Plan." *Harvard Law Review* 68 (May, 1955): 1154-1175.

Haar, Charles M. *Land-Use Planning, A Casebook on the Use, Misuse, and Re-use of Urban Land.* Boston: Little, Brown and Company, 1971.

Johnson, Ewing Matherly, Jr. "The Rezoning Process: Babcock's Players in a Real-World Setting." Masters Thesis, University of Tennessee, 1973.

Joiner, Charles A. *Organizational Analysis: Political, Sociological and Administrative Processes of Local Government.* East Lansing: Michigan State University Institute for Development and Service, 1964.

Key, V. O. *A Primer of Statistics for Political Scientists.* New York: Thomas Y. Crowell Company, 1966.

Knoxville, Tennessee. *Zoning Ordinance for Knoxville, Tennessee* (1970).

Knoxville, Tennessee. *The Zoning Ordinance of the City of Knoxville, Tennessee* (1974).

Labovitz, Sanford, and Robert Hagedorn. *Introduction to Social Research.* New York: McGraw-Hill Book Company, 1971.

Lambert, Walter N. *Governments in Knox County*. Knoxville: University of Tennessee Bureau of Public Administration, 1965.

Long, Norton E. "Planning and Politics in Urban Development." *Journal of the American Institute of Planners* 25 (November 1959): 167-69.

MacDonald v. Board Of Commissioners, 238 Md. 549, 210 A. 2d 325 (1965).

Makielski, S. J., Jr. *The Politics of Zoning, the New York Experience*. New York: Columbia University Press, 1966.

Mandelker, Daniel R. "Control of Competition as a Purpose in Zoning." *Zoning Digest* 14 (February, 1962): 33-42.

Mandelker, Daniel R. *Managing Our Urban Environment*. Indianapolis: The Bobbs-Merrill Company, Inc., 1963.

Mandelker, Daniel R. *The Zoning Dilemma*. The Bobbs-Merrill Company, 1971.

Michalski, Robert E. "Zoning--The National Peril." *Planning 1963*. pp. 62-67. Chicago: American Society of Planning Officials, 1963.

Nectow v. City of Cambridge, 277 U.S. 183, 48 Sup. Ct. 447 (1928).

Polsby, Nelson W. *Community Power and Political Theory*. New Haven: Yale University Press, 1963.

Prochaska, Joseph Martin. "The Effect of Spot Zoning on the Master Plan, A Case Study: Lansing, Michigan." Masters Thesis, Michigan State University, 1958.

Rabinovitz, Francine F. *City Politics and Planning*. New York: Atherton Press, 1969.

Ranney, David C. *Planning and Politics in the Metropolis*. Columbus, Ohio: Charles E. Merrill Publishing Company, 1969.

Raymond and May Associates. *The National Commission on Urban Problems Research Report No. 11: Zoning Controversies in the Suburbs*. Washington, D. C.: Government Printing Office, 1968.

Schaffer, Enos P. "Contract Zoning and Conditional Zoning." *Zoning Digest* 17 (November, 1965): 345-354.

Simon, Julian L. *Basic Research Methods in Social Science*. New York: Random House, 1969.

Springer, Marvin R. "Zoning Administration." *Proceedings of the 1960 Institute on planning and Zoning*. New York: Mathew Binder and Company, Inc., 1961.

Tennessee. *Tennessee Code Annotated* (1973).

Toll, Seymour I. *Zoned American*. New York: Grossman Publishers, 1969.

United States Bureau of the Census. *Census of Population: 1970*, Washington, D. C.: Government Printing Office, 1972.

Village of Euclid v. Ambler Realty Company, 272 U. S. 365, 47 Sup. Ct. 114 (1926).

Walker, Robert Averill. *The Planning Function in Urban Government*. Chicago: The University of Chicago Press, 1950.

Wheaton, William L. C., and Wheaton, Margaret F. :Identifying the Public Interest: Values and Goals." in *Urban Planning in Transition*, pp. 152-164. Edited by Ernest Erber. New York: Grossman Publishers, 1970.

Willhelm, Sidney M. *Urban Zoning and Land-Use Theory*. New York: The Free Press of Glenco, 1962.

Williams, Norman, Jr. *The Structure of Urban Zoning*. New York: Buttenheim Publishing Company, 1966.

APPENDICES

APPENDIX A

NEIGHBORHOOD PARTICIPANT INTERVIEW SCHEDULE

1. When you first heard of the rezoning request which you opposed, how did you organize for the opposition?

2. What relation did you have with the planning staff?

3. What relation did you have with the planning commission members?

4. What relation did you have with the city council members?

5. What relation did you have with the rezoning petitioner?

6. a. Did you have an ongoing organization in the neighborhood through which you worked?

b. Did you formally petition the planning commission or city council?

c. Was a delegation from the neighborhood present at the planning commission or city council hearing?

d. Did you have any direct contact with the planning commission members or city council members?

e. Did you use the services of a lawyer in opposing the rezoning?

7. Were there any meetings in the neighborhood with the planning staff, planning commission members or city council members?

8. Do you think that your opposition had any effect on the rezoning decision in the planning commission or city council?

9. Were you satisfied with the decision in the planning commission or city council?

10. If you could, what would you change in the rezoning process today?

EXECUTIVE DIRECTOR OF THE PLANNING COMMISSION INTERVIEW SCHEDULE

1. How is a rezoning request processed from the time it is received to the time it is finally acted upon by city council?

2. Who are the people formally involved in the processing of the rezoning request?

3. What relation does the planning staff have with the rezoning petitioner?

4. What relation does the planning staff have with the planning commission?

5. What relation does the planning staff have with the city council?

6. What relation does the planning staff have with the neighborhood?

7. In researching the planning commission minutes, I have found references to meetings with neighborhood organization.

   a. What is the nature of these meetings?

   b. Is there a policy followed in relationship to neighborhood organizations?

   c. Is neighborhood input actively sought?

8. Do you think that neighborhood opposition has an effect on rezoning decisions in the planning commission or city council?

9. Has organized neighborhood activity always been at the same level as in the past two years?

10. Do you think that it is good for the neighborhood to have a formal, recognized and active input into the rezoning process?

11. Do you think that the planning commission and city council

follow good planning principles in their decisions on rezoning? If not, on what do you think they base their decisions?

12. What do you think is the cause of planning commission recommendations that are contrary to staff recommendations?

13. What do you think is the cause of city council decisions that are contrary to the planning commission recommendation?

14. On what do you base the staff recommendation?

15. Do you find it difficult to base recommendations on the general plan?

16. Do you think that the criteria for rezoning decisions are explicit enough?

17. Do you think that Knoxville zoning has been successful in regulating development for the public interest?

18. What changes have taken place in the rezoning process and environment in the last three years? If you could, What would you change in the rezoning process today?

19. Generally, what role do you see the staff playing in the rezoning process?

PLANNING COMMISSIONER INTERVIEW SCHEDULE

1. How is a rezoning request handled in the planning commission?

2. What relation does the planning commission have with the rezoning petitioner?

3. What relation does the planning commission have with the planning staff?

4. What relation does the planning commission have with the city council?

5. What relation does the planning commission have with the neighborhood?

6. In researching the planning commission minutes, I have found references to meetings with neighborhood organizations.

   a. What is the nature of these meetings?

   b. Is there a policy followed in relationship to neighborhood organizations?

   c. Is neighborhood input actively sought?

7. Do you think that neighborhood opposition has an effect in rezoning decisions in the planning commission or city council?

8. Do you think that the following factors of neighborhood opposition have an effect on the outcome of zoning decisions in the planning commission?

   a. The use of a neighborhood organization?

   b. The use of a petition?

   c. The use of a delegation at the public hearing?

   d. The use of direct contact with commission members?

   e. The use of a lawyer?

9. Has organized neighborhood activity always been at the same level as in the past two years?

10. Do you think that it is good for the neighborhood to have a formal, recognized and active input into the rezoning process?

11. Do you think that the planning commission and city council follow good planning principles in their decisions on rezoning? If not, on what do you think they base their decisions?

12. What do you think is the cause of planning commission recommendations that are contrary to planning staff recommendations?

13. What do you think is the cause of city council decisions that are contrary to planning commission recommendations?

14. Do you think that the criteria for rezoning decisions are explicit enough?

15. Do you think that Knoxville zoning has been successful in regulating development for the public interest?

16. What changes have taken place in the rezoning process and environment in the last three years? If you could, what would you change in the rezoning process today?

17. Generally, what role do you see the planning commission playing in the rezoning process?

CITY COUNCIL MEMBER INTERVIEW SCHEDULE

1. How is a rezoning request handled in the city council?

2. What relation does the city council have with the rezoning petitioner?

3. What relation does the city council have with the planning staff?

4. What relation does the city council have with the planning commission?

5. What relation does the city council have with the neighborhood?

6. Do you think that neighborhood opposition has an effect on rezoning decisions in the planning commission or city council?

7. Do you think that the following factors of neighborhood opposition have an effect on the outcome of zoning decisions in the city council?

   a. The use of a neighborhood organization?

   b. The use of a petition?

   c. The use of a delegation at the public hearing?

   d. The use of direct contact with council members?

   e. The use of a lawyer?

8. Has organized neighborhood activity always been at the same level as in the past two years?

9. Do you think that it is good for the neighborhood to have a formal, recognized and active input into the rezoning process?

10. Do you think that the planning commission and city council follow good planning principles in their decisions on rezoning? If not,

on what do you think they base their decision?

11. What do you think is the cause of city council decisions that are contrary to the planning commission recommendation?

12. Do you think that the criteria for rezoning decisions are explicit enough?

13. Do you think that Knoxville zoning has been seccessful in regulating development for the public interest?

14. What changes have taken place in the rezoning process and environment in the last three years? If you could, what would you change in the rezoning process today?

15. Generally, what role do you see the city council playing in the rezoning process?

NEWS-SENTINEL REPORTER INTERVIEW SCHEDULE

1. Generally, who do you think are the major or key actors in the rezoning process in Knoxville?

2. Who do you feel has the major influence on rezoning decisions in the planning commission or city council?

3. Do you think that neighborhood opposition has an effect on rezoning decisions in the planning commission or city council?

4. Has organized neighborhood activity always been at the same level as in the past two years?

5. Do you think that the planning commission and the city council follow good planning principles in their decisions on rezoning? If not, on what do you think they base their decisions?

6. What do you think is the cause of planning commission recommendations that are contrary to planning staff recommendations?

7. What do you think is the cause of city council decisions that are contrary to planning commission recommendations?

8. What changes have taken place in the rezoning process and environment in the last three years?

APPENDIX B

Table 17. Summary Description of Knoxville Zoning Districts

Zoning District	Summary Description
A-1	General Agricultural District (residences allowed on 10-acre lots)
R-1	Single Family Residential District (Approximately six dwelling units per acre allowed with sewer and approximately three dwelling units per acre allowed without sewer)
R-1-A	Low Density Residential District (up to 14 dwelling units per acre including multiple family dwellings)
R-2	General Residential District (up to 29 dwelling units allowed per acre for certain multiple family uses)
R-3	High Density Residential (up to 25 units per acre allowed in one- and two-story multiple family structures and up to 96 units per acre allowed in 13-story multiple family structures)
RP-1	Planned Residential District allowing up to 24 units per acre upon review of the planning commission
RP-2	Planned Residential District allowing up to 40 units per acre upon review of the planning commission
RP-3	Planned Residential District allowing up to 80 units per acre upon review of the planning commission
O-1	Office, Medical, and Related Services District
O-2	Civic and Institutional District
C-1	Neighborhood Commerical District
C-2	Central Business District
C-3	General Commercial District

Table 17, continued

Zoning District	Summary Description
C-4	Highway and Arterial Commercial District
C-5	Tourist Commerical District
C-6	General Commercial Park District (planned commercial park--plans must be submitted to and approved by the planning commission)
SC-1	Neighborhood Shopping Center District (planned neighborhood shopping center allowing not less than 5 nor more than 20 shops and stores--plans must be submitted to and approved by the planning commission)
SC-2	Community Shopping Center District (planned community shopping center allowing not less than 15 nor more than 40 shops and stores--plans must be submitted to and approved by the planning commission)
SC-3	Regional Shopping Center District (planned regional shopping center allowing not less than 30 shops and stores--plans must be submitted to and approved by the planning commission)
H-1	Historical District (historical preservation)
I-1	Planned Industrial Park District (plans must be submitted to and approved by the planning commission)
I-2	Restricted Manufacturing and Warehousing District
I-3	General Industrial District
I-4	Heavy Industrial District
F-1	Floodway District

Source: The Zoning Ordinance of the City of Knoxville, Tennessee (1974).

VITA

John David Lamb was born in Oak Ridge, Tennessee, on April 12, 1950. He attended Norwood Elementary, Sterchi Elementary and Powell Elementary schools. He attended Powell High School and graduated in 1968. Beginning the summer of 1968, he attended the University of Tennessee and graduated June 1972 with a Bachelor of Science in Psychology with a minor in Anthropology.

He entered the Graduate School of Planning in the fall of 1972. After completing all course work and the majority of his thesis, he joined the Peace Corps and served two years as a planner with the Provincial Development Staff, San Jose, Antique, Philippines. During a six-week homeleave before continuing his Peace Corps service, he completed his thesis and was graduated in June 1977.