Regulating the Landscape: Real Estate Values, City Planning, and the 1916 Zoning Ordinance

Keith D. Revell

On July 25, 1916, the New York City Board of Estimate and Apportionment adopted the nation's first comprehensive zoning ordinance. Edward Bassett, the Brooklyn lawyer who chaired the commission that drafted the law, wrote to the members of his handpicked committee to congratulate them on a job well done and to invite them to a dinner in honor of the two men who wrote the ordinance: architect George Ford and statistician Robert Whitten. George Mortimer, president of the Equitable Building Corporation, responded enthusiastically: "While I think we are all to be congratulated, I feel that the real glory to be received from this legislation will perhaps not come until ten years from now, when the general public will be able to appreciate this great accomplishment." George Whipple, professor of Sanitary Engineering at Harvard University, likewise expressed his satisfaction with the work of Ford and Whitten: "I am sure," he emphasized, "that the example of New York City will be followed in many other places in the country." This support from commission members mirrored the response of other interested New Yorkers. Bruce Falconer, attorney for the Fifth Avenue Association, praised the measure even as he made the case for more stringent regulations. A similar verdict came from Benjamin Marsh, representative of the radical wing of the city planning movement. Although the commission could have done more, Marsh remarked, it had "made the most painstaking and careful study of existing conditions of development, use and future needs of New York City, ever made in this country, and probably in the world."
From real estate executives to public health experts, the 1916 zoning ordinance attracted praise as a major step toward salutary government regulation of the built environment. This chapter explores the varied motives of the groups that advocated passage of the ordinance. Supporters of the measure fell roughly into two categories. The first comprised the second group; they pushed for the ordinance because they saw it as a way to control private property for public purposes—that is, as a means to empower a new city planning bureaucracy.

The groups that crafted the 1916 zoning ordinance tried hard to make it appear to be the product of a wide-ranging consensus on the need to regulate the built environment. And, indeed, an impressive array of interest groups supported the measure. But drafting the ordinance required both cooperation and compromise. A long process of negotiation resulted in the exclusion of many planning objectives from the final ordinance. The uneasy alliance between real estate owners and planning reformers gave New York a good first step toward central planning. That step was not followed up, as many reformers had hoped, when the political atmosphere that made the alliance possible changed abruptly in 1918. Before exploring the political environment of regulation and the motivations of the groups that supported it, I will briefly describe the details of the 1916 ordinance.

**Comprehensive Zoning**

The 1916 zoning ordinance was "comprehensive" because it subjected every piece of real estate in Greater New York City—over $8 billion worth of real property—to three types of regulation: use, height, and area limitations. First, the ordinance divided the city into three use districts—residential, business, and unrestricted. In residential districts, tenants could use new buildings as homes, apartments, hotels, clubs, churches, schools, libraries, museums, hospitals, nurseries, truck gardens, or railroad stations. Whereas this regulation was designed to prevent commercial activities from developing in neighborhoods, it did permit doctors, dentists, artists, hairdressers, manicurists, and dressmakers to set up shop in residential districts, as long as their advertising efforts remained unobtrusive. All other business and manufacturing activities were prohibited. According to George Ford, the ordinance designated two-fifths of Manhattan and about two-thirds of the whole city as residential area.²

Buildings in business districts could house all forms of business and industry except those generating objectionable odors or by-products—like asphalt, fertilizer, paint, or soap manufacturing, crematoriums, metal or stone works, or anything involving ammonia or sulfuric acid. The ordinance allowed other types of manufacturing in business districts, but confined them to 25 percent of the total floor space of the building, up to a maximum area equal to the area of the lot. This exception permitted fabricating, altering, and repair areas in larger shops and stores.³

Finally, in unrestricted areas, buildings could be used for residential, business, or industrial purposes.⁴

The height limitations of the ordinance were its second and most distinctive feature, producing a form of building known as setback architecture. The ordinance designated five height districts, each establishing a relationship between street width and building height (see Figure 2.1). District One, for instance, allowed the street wall of buildings to be equal to the width of the street; a building could rise to 65 feet on a street 65 feet wide. After that, the building could rise an additional 2 feet for every one foot from the street that it was set back—for instance, rising 20 feet if it were set back from the street line by 10 feet. The most liberal restrictions applied to areas in Manhattan's central business district (CBD), business sections of Brooklyn, and waterfront areas in Queens and the Bronx (see Figure 2.2). Lower restrictions applied to large sections of every borough. Richmond and Queens, where the population was still sparse relative to the CBD, received the most strict height designations (see Figure 2.3). Height districting in the underdeveloped sections of the city suggested that the authors of the ordinance did not want other areas to be built up in the same way as lower Manhattan.⁵

Third, the ordinance created area districts. Area restrictions prevented new buildings from covering their entire sites, mandating open spaces at the rear and sides of the structure—the taller the building the more space needed on all sides. Although these restrictions left plenty of room in the CBD for bulky buildings, certain area districts provided for rather small structures. For instance, area "E" restrictions applying to interior lots in residential districts made it illegal for the first floor of structures to cover more than 50 percent of the site, with second floors covering only 30 percent of the site (see Figure 2.4). These "villa districts" were located primarily in the upscale residential sections of Brooklyn, and a few parts of Queens, Staten Island, and the Bronx.⁶

The ordinance also included provisions for modification of use, height, and area districts. A Board of Appeals would hear petitions fo
Figure 2.1 Examples of Setback Principle in a "1 1/2 Times" District. Source: Commission on Building Districts and Restrictions, Final Report (New York: Board of Estimate and Apportionment, Committee on the City Plan, 1916) [hereafter CBDR, Final Report], p. 260.

Figure 2.2 Height District Map for the Borough of Manhattan. Height limitations are indicated as a multiple of street width in each district. Source: CBDR, Final Report, Figure 128.
changes in the zoning system, emphasizing that the plan was not perfect and that planning experts, real estate owners, and government officials would continue to work together to shape the city's built environment.

The Politics of Successful Regulation

The zoning regulations outlined above emerged from a complex process of negotiation between business interests and planning reformers. Private government groups—the real estate and financial institutions that oversaw much of the city's built environment—worked with appointed officials to define the new powers that municipal bureaucrats should have over private property. The success of these negotiations depended upon the political environment provided by the sponsorship of key city officials during the heyday of progressive politics in New York City.

Two committees developed the zoning regulations. The Heights of Buildings Committee (HBC) began work in 1913 and was dissolved when it completed its study in December of that year. Manhattan borough President George McAneny sponsored the HBC proposal in February 1913 after consulting with Edward Bassett. As a former member of the state's Public Service Commission and a leader in the Brooklyn city planning movement, Bassett had worked with McAneny on the development of the city's subway system. The HBC's report suggested amendments to the state constitution—adopted in 1914—that allowed the city to enforce zoning regulations. With its new constitutional powers, the Board of Estimate created the Commission on Building Districts and Restrictions (CBDR) in 1914 to write the zoning law. The ordinance was completed by the CBDR during the high tide of progressive politics in New York City. Voters swept Fusion Mayor
John Purroy Mitchel into office in November 1913 with the largest plurality ever received by a mayoral candidate in the history of the consolidated city. Fusion candidates also dominated the Board of Estimate. McAneny was elected president of the Board of Aldermen where he continued his oversight of the zoning project. These committees acted as a transitional mechanism, facilitating the transfer of control over portions of the built environment from private governmental organizations to municipal government bureaucrats.

The structure of these committees allowed Bassett, who chaired both the HBC and the CBDR, to create a consortium of private interest groups representing business, civic, and planning concerns with official sanction from the Board of Estimate. Bassett not only helped write the proposal that created the HBC; he also gave McAneny a list of the New Yorkers he wanted on the committee and its technical staff. In effect, Bassett and McAneny provided real estate executives, a few appointed officials, and selected planning advocates with the authority to write public regulations. Insulated from electoral politics, they worked out their disagreements over the purposes and scope of the proposed ordinance.

Although private developers would continue to decide how tall buildings would be and who would rent them, the zoning ordinance placed some control over the height and use of buildings into the hands of public officials. But the ordinance did not change the existing arrangement of space in the city. Height and use districts were based largely on preexisting patterns of development, and their implementation required neither the relocation of industries nor the removal of tall buildings. The ordinance stabilized those patterns, giving official sanction and legal protection to the status quo. At once sweeping and conservative, the zoning ordinance grew out of years of failed attempts to unite private and public efforts to guide the growth of the city’s landscape, especially in lower Manhattan.

Addressing Congestion: Spending, Taxing, and Regulating

Lower Manhattan was one of the most crowded areas in the world by the early twentieth century. The Lower East Side contained some areas with over 1,000 people per acre in 1905. The concentration of businesses in the Wall Street area, made possible in part by the ever increasing height of office buildings, brought congestion to wealthier sections of the city as well. For instance, as the most direct route from the Brooklyn Bridge to the financial district, Nassau Street was thick with pedestrians at every hour of the day. The proximity of garment industries to the shopping district brought the rich and poor into frequent contact. Narrow streets, surrounded by ever taller buildings, provided the cramped arenas where ethnic and economic groups mixed.

Plans for relieving the uncomfortable, unsightly conditions in lower Manhattan abounded. In 1904, the Municipal Art Society suggested cutting a series of diagonal boulevards across the tip of the island. From the Williamsburg, Manhattan, and Brooklyn bridges wide streets would speed commuters from Brooklyn and the Lower East Side to downtown locations. In 1907, Mayor George B. McClellan’s New York City Improvement Commission proposed a 160-foot-wide parkway connecting Fifth Avenue and the soon-to-be-completed Queensboro Bridge. And in 1910 Mayor William Gaynor, distressed by the congested conditions along his beloved Fifth Avenue, offered to carve a new avenue between Fifth and Sixth stretching from Eighth Street to Central Park.

None of these street-widening projects came to fruition. Several reasons lay behind their failure. Cost was a primary factor. Creating new streets involved the city in lengthy, expensive eminent domain proceedings. The Mayor’s Improvement Commission estimated the cost of the parkway to be at least $15 million, and Mayor Gaynor’s avenue would have cost $40 million. Although steps were taken to reduce the cost of condemnation proceedings in 1913, little could be done to streamline the political process of creating new streets. Hundreds of existing buildings had to be razed to lay out new thoroughfares—agonizing legions of real estate owners and disrupting scores of businesses.

Taxation provided another approach to the problem of congestion. Taxation as a solution to overcrowding grew out of the work of the Committee on Congestion of Population (CCP), formed in 1907 by Florence Kelley, Lillian Wald, Mary Simkovich, and others. Under the leadership of single-taxer turned urban reformer Benjamin Marsh, the CCP attributed the overcrowded conditions of the Lower East Side primarily to the concentration of landownership and its attendant ills: high rents, ramshackle tenements, rich landlords. The CCP’s exhibitions on the living conditions in the city’s tenement districts inspired several mayoral inquiries into the problem of congestion, andflowered in 1914 with the proposal to untax buildings.

Between 1914 and 1916 Mayor John P. Mitchel’s Committee on Taxation considered a proposal that would have practically eliminated the municipal tax on improvements—that is, buildings. The city had always levied real estate taxes on both land and buildings to fill the public treasury. The proposal before the Committee would have lowered the tax rate on the assessed value of improvements by gradually