

BE A REAL AMERICAN CITY?

Protective Association to Mr. Blucher on
am Citizens Protective Association.
may not have thought of before.
eriled.

When prospective buyers learn of the legal
make it impossible for a property owner to
property.

will be involved in as many law suits as
a law.

the most exclusive property in Birmingham,
ions and restrictions as it sees fit.

office holders, of politicians, of people who
business and handle your property as you,

irmingham.

f the railroad, in spite of the fact that it will
can be constructed.

property and personal rights.

tion and untold expense for the ordinance
ill have to be declared unconstitutional.

ompetently drawn.

make it afterwards. Only the Village Com-

ou vote your own rights away.

ou pass it—or it will be too late. You will
hands into the hands of three office holders

ty and personal rights.

NO

ng Ordinance

m Citizens Association

Association at the Birmingham High School
BER 16th, at 7:30.

ed on City and Village Zoning will answer
evening.

ity with the other buildings in the neighborhood (cite the paragraph
covering case of 50 per cent fire loss).

When Mr. Blucher boasts that there are twenty-seven million people
in the United States living under zoning ordinances I might be
modestly permitted to say that there are approximately one hundred
and fifteen million people who are not living under zoning laws. Mr.
Blucher does not explain that the zoning laws under which these
twenty-seven million people live have been subject to much revision
through court action and otherwise.

While he attempts to prove that the zoning of a city is the same in principle as the restrictions a subdivider places on his property, Mr. Blucher again exposes his inability to reason logically. When a subdivider places restrictions on his property he is prescribing the use to which it shall be put so that the person who buys it will know definitely what he is getting. He does not sell the man property first, and tell him afterwards that he cannot use it either for the purpose for which he bought it or anything else. But this is what the zoning law proposed for Birmingham does.

Professional zoning law advocates are dependent upon the success of their propaganda for their livelihood. To listen to them one would think that the country was suffering from deterioration of some kind or another in spite of the fact that it is growing and developing in a healthy and robust manner. The difficulties that have beset certain cities have not been because of a lack of foresight in planning these cities but to their unprecedented development which could not be foreseen. (Most of the cities Mr. Blucher mentions that have adopted zoning laws are either dead or have ceased to grow.) Detroit is progressing very favorably without a zoning law. Even in New York zoning has only been applied to certain business and industrial sections that had already been developed. City zoners confuse the difference between cities that are fully grown and those that are still growing like a healthy boy. The dangers are not due to the mistakes that these cities made, but to the prosperity that made them grow and change so rapidly.

Again I ask that Mr. Blucher read Mr. Lincoln.

I would also ask that the people of Birmingham accept the doctrine of Abraham Lincoln rather than that of Mr. Blucher.

Abraham Lincoln's good common sense is a better guide to follow than Mr. Blucher's far fetched and fanciful theories.

Be safe, and vote against THIS zoning ordinance.

Don't Vote Your Rights Away

PROFIT BY EXPERIENCE OF PEOPLE IN OTHER CITIES.

The people of Birmingham may well take a lesson from the experiences of people in other cities where zoning laws were adopted as a panacea for all the troubles, real or imagined, that happened to be bothering the city. Always there is somebody to rush forward with a remedy—at a profit to himself—to meet any kind of a condition whether mental, physical, political or economical. Since the war both people and conditions seem to have been upset and there has been first a rush after one nostrum and then another.

In the trend of this quackery came the zoning measures—and with them people who derive their income from putting them across.

New York City was the first to take it up and it was more or less forced into it by the difficulties that arose through the congestion of garment workers along a certain section of Fifth Avenue. New York has had the zoning law for some eight or ten years, but it has been greatly modified in that time, partly as a result of some adverse court decisions.

St. Louis had a zoning ordinance. It was rushed through with the speed typical of the whole zoning fad; but St. Louis had occasion to reconsider its hasty decision in a more judicial manner in cases that went to the Supreme Court.

On October 5, 1923, the Supreme Court of Missouri rendered two decisions in connection with suits to recover the penalty prescribed for the violation of certain sections of the zoning ordinance.

The court held that the penalty could not be collected and stated further that the ordinance was invalid for the reason that it was unreasonable and oppressive, that it imposed restrictions upon the use of private property having no relation to the health, safety, comfort or welfare of the inhabitants of the city; that it was an unlawful deprivation of the use of property without compensation or due process of law, and that the enactment of the ordinance was not within the powers delegated to the city.

In his comments upon the decision which invalidated the St. Louis zoning ordinance Justice Graves of the Supreme Court of the State of Missouri said:

"It is the use to which property may be put which gives it value. Strip it of all its uses and the property is as useless as the most barren spot of the great desert. Strip it of a part of its legitimate use and you have damaged it to the extent of the uses cut off. The restrictions upon the legitimate use of property inflicted by this ordinance are a destruction of the property and there being no provision for compensation, the ordinance is void.

"It has never been able to depart from the idea that this is a constitutional government both in the nation and in the city.

"This constitution was intended to protect the citizen in his property rights. Unlike the 'faddist' either public or private (for there are both kinds of 'faddists') I have been unable to endorse the view in 'what is a constitution between friends.' In other words the constitutional inhibitions must not be set aside or wiped out by every wave of popular clamor.

"There is too much disposition to set aside and ignore the organic law intact."

Justice Graves called attention to the fact that both federal and state constitutions prohibit the taking of private property for public use without compensation. Thus was the whole zoning ordinance in St. Louis invalidated.

Although many zoning ordinances have been submitted to the city council of Cleveland they have always been defeated and there seems little likelihood of their success in the future.

In the city of Philadelphia a vigorous fight was waged by the opponents of the zoning ordinance against the measures submitted by the common council of that city. In opposing the zoning ordinance Horace Groskin, a director of the Philadelphia Real Estate Board and former president of the Pennsylvania Real Estate Association said:

"You might imagine from the statements of the zoners that zoning is an established thing in this country and has been tried out in many cities and found to stand the test. On the contrary, of the forty-four places that are trying zoning, only one city has had it for five years and seven-eighths of the remainder have had it less than two years.

"Restricting the use of property or zoning in America is today purely in the experimental stage."

The zoning ordinance was rejected in Philadelphia.

In Detroit all efforts to inflict a zoning ordinance on that city have been unsuccessful. In fact the zoning ordinance proposed for Birmingham is in reality practically the same one rejected by Detroit. It is a patched up affair made to meet a price as the village commissioners refused to pay the higher fee demanded by a recognized expert. Certainly if Birmingham were to have a zoning ordinance it should be drafted by the very best ability available and not one drawn up by the lowest bidder.

A zoning law absolutely kills the individuality of cities. It is absolutely contrary to American originality which has set this country apart from and above the rest of the world.

ZONING IS STIFLING EUROPEAN CITIES TODAY.

Most of the buildings are obsolete and antiquated, but because of the rigid restrictions and control of the use of real property by government agents, it is impossible to destroy the buildings and erect modern up-to-date structures.

Europe is so backward and unprogressive that one marvels at the foolhardy audacity of a certain type of people who are forever and anon trying to force one European custom or regulation or another on a progressive people like Americans are supposed to be. It is its individuality, originality, initiative and aggressiveness that has placed America far ahead of the rest of the world. Our leadership is due to lack of governmental interference, and we must defeat the efforts of theorists and fanatics to goose step American progress.

There is a very distinct difference between city planning and city zoning. City planning proceeds under the right of eminent domain, that is under condemnation proceedings in court with compensation for the value of property appropriated. City planning continues after the city has attained mature growth with the widening and extending of streets and other public improvements. The landowners who are affected by the consummation of a city plan are reimbursed for any loss sustained.

City zoning on the other hand involves a great multiplication of taboos for the individual property owner, builder and user. It gives a few local government officials the determination of the use of every piece of property in the city. It makes the property owner relinquish his property rights. It gives the city government power to change a home district into a factory district. It gives it the power to classify and mark out special districts and zones and places in effect one set of rules and orders for one class and an entirely different set of rules and precepts for another class, or zone.

City zoning does not look to the courts for interpretation or enforcement, but to political administrators who operate through police power to place the city in a straight jacket.

The proposed zoning ordinance for Birmingham was not drafted by people competent to safeguard the interests of the city.

It deals with a lot of useless and petty details that are capable of endless interpretations and misunderstanding. It humiliates the people of Birmingham by placing their most intimate business and personal affairs under the domination of the police and health officers. It makes it possible through amendments to destroy the present restrictions on property which have the sanction of the courts.

That the ordinance exceeds its constitutional rights is self-evident. It will entail the city in years of legal battles and untold expense in efforts that will certainly be made by righteous individuals to have this transgression upon their constitutional rights and guarantees declared unconstitutional, and the ordinance is so drafted that every part of it will have to be declared unconstitutional, making it necessary to wage separate legal battles on every provision in the ordinance.

The proposed zoning ordinance endangers the present safeguards the city has and it should therefore be defeated to make possible the unhampered application of a plan that is devised in the way it should be.

It has been stated that factories are to be kept out of Birmingham, yet this ordinance provided for their entry. Not only that, but the entire zoning law is laid out with the present location of the railroad as a basis. It will be but a few years till the railroad will run a mile or so east of its present right of way.

There is not such an immediate need for a zoning law as to justify one that is wrong from its very foundation. There is at least time to prepare one that fully meets the needs of the city, without committing any such egregious blunders as are in the present ordinance and that are fatal to the real welfare of the city.

Safety first is the best policy. Vote against THIS Zoning Ordinance.

PROTECTIVE ASSOCIATION