

# Drawing The Line

The zoning process in Memphis and Shelby County is slowly beginning to change. The little understood but far reaching governmental power to regulate the use of land is currently being given exhaustive scrutiny for the first time in twenty years. Recently, a two year administrative self-study recommended a complete reorganization of the Planning Commission, its staff and their relationship to the city and county governments. In addition, a two year contract with the nationally renowned zoning consultant Richard Babcock, in consultation with the Planning Commission and eight working task forces comprised of neighborhood, business and government leaders, will result in a complete revision of the Memphis and Shelby County Zoning Regulations by the end of this year. Meanwhile, the Tennessee General Assembly has been requested by the City and County to amend the State laws dealing with zoning to streamline the land use regulation process.

What has led to this unprecedented interest in the zoning process and how will it promote the planned development of Memphis and Shelby County? An answer to these questions requires a brief description of the zoning system in Memphis, its shortcomings and how it can be utilized in the future to manage the city's growth.

The zoning system is legally established by the zoning ordinance, adopted by the City Council or County Court, which defines in detail the uses permitted in each zoning district, the geographic location of the districts, rules and regulations for amending the ordinance and maps, and adjustment and appeal procedures. (This system parallels the federal government's system of checks and balances in the separation of powers.) The legislative branch of local government adopts the zoning ordinance and approves amendments to it. The adjustment board, serving a quasi-judicial function, mitigates any inequities and hardship which might arrive through the city-wide application of the ordinance. The City Administration, the executive branch, enforces the ordinance through building and occupancy permits and provides citizen input and professional advice through the mandatory referral of any proposed zoning change (district regulations or maps) to the lay Planning Commission and/or professional staff.

This system has been in force in Memphis since the first zoning ordinance was adopted here in the early 1930s following the U. S. Supreme Court's decision that local regulation of land use by zoning ordinance was constitutional, even though the value of an individual's property may be reduced in the process. The early ordinance was based on Memphis' first city plan which was drawn up by city planner Harland Bartholomew in 1928. Theoretically the zoning ordinance is supposed to implement the plan. However, as has often been the case in Memphis, the 1928 plan was not adopted, but the zoning ordinance designed to enforce it was. A second county-wide plan was adopted in 1955 along with a new zoning ordinance for Memphis. The County's zoning was revised in 1960.

These County ordinances could

serve the limited purposes for which they were put, i.e., to conserve property values and to avoid conflicting land use and traffic congestion. However, the basic planning and economic assumptions on which these previous zoning systems were based were wrong. It was thought for example that a simplistic segregation of land use would result in a quality urban environment. Residents of large areas of Memphis think otherwise today. It was also thought that when a zoning map was drawn and ordinances adopted, the private real estate market would conform to the government's wisdom. The thousands of families living in non-conforming houses that cannot be legally enlarged on industrially zoned land in north and south Memphis know otherwise. The more than 2,500 zoning amendments adopted since 1955 testify to the 'flexibility' of the public sector and its accommodation to the private real estate market.

These assumptions and related failures of the zoning system are not unique to Memphis and Shelby County, but have occurred generally in thousands of localities across the country. By the 1960s it was generally acknowledged that in many cases zoning had become a legal sanction for virtually unplanned and often socially and environmentally destructive development or abandonment of large portions of our urban areas.

The recognition of this problem and response to it has varied in different sectors of the country. In rapidly growing areas new land use controls and sophisticated growth management procedures were adopted. They incorporated zoning and subdivision regulations, capital improvement and taxation policies to actually realize public plans and policies to shape and determine the character, location, timing and cost of new development. These areas, such as suburban Washington, D.C. and many California and Florida cities, have set administrative and legal examples that many cities are currently following.

In Memphis and Shelby County the interest of both the private and public sectors is to establish a system of land use controls and development policies which will (1) promote the redevelopment of Downtown and other neglected areas of the city and county, (2) coordinate and speed the approval process for new development and locate it properly in terms of existing public facilities and services, (3) conserve the liveability of existing residential neighborhoods, (4) conserve the environmental quality and general liveability of the city and county. The Planning Commission is currently involved in a complete revision of the existing zoning regulations with these criteria in mind. It is aided by Babcock, the City-County professional planning staff, and 65 representatives of more than 60 local organizations concerned with land use and planning. The product of their work will be extensively discussed when final drafts are completed next fall.

In addition, the reorganization of City and County planning operations will promote a more coordinated and effective planning process. The changes include the dissolution of the lay Planning Commission and the

(Continued on the back page)

# CENTER CITY

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## Mr. U.S. Attorney

The U.S. attorney is the prosecutor and chief legal adviser for all federal agencies in this area. He and his dozen assistant U.S. attorneys can help them do their job in such areas as consumer protection, equal employment opportunities, housing, health care, and many other specialized areas. Good work can be done quietly, without convening a grand jury and without splashes of publicity.

The U.S. attorney's office is also capable of getting federal agencies to shape-up and assure proper delivery of government-funded programs and services. Social Security and Medicaid administrative procedures, for example, might need some attention, simply so a person doesn't have to go through the expensive and exhaustive process of getting an attorney and going to court to straighten out their deserved benefits. The assistant U.S. attorney can simply point out the relevant federal regulations and demand compliance.

Not that the U.S. attorney has any White Knight's job; as Whitney North Seymour explained, the job

turns out to be "administrator, troubleshooter, enforcement planner, interviewer, litigator, statesman, paper-pusher, back-slapper, adviser, writer, researcher, negotiator, interviewee, and a dozen other things as well." Little time or opportunity is left to actually go into court; he has too many administrative responsibilities.

Still, the legal tools at his disposal are impressive. Unlike state prosecutors, for example, the U.S. attorney has both criminal and civil jurisdiction, and broad discretion as to whether (or how) to institute enforcement proceedings. Furthermore, as Seymour points out, "his decision whether to prosecute is not subject to review by any court, in keeping with the Constitutional separation of powers."

While Memphis is making national headlines for its prosecution of obscenity, other U.S. attorneys around the country are involved in consumer fraud, urban renewal fraud, pollution control violations, and employment discrimination.

— David Bowman

## Get-aways

In December I went with the Docents of Brooks Art Gallery to see the Edward Hopper show at the Arkansas Arts Center in Little Rock. I was impressed. The well designed Center incorporates a multitude of uses and sponsors a comprehensive arts program.

A non-profit foundation, the Center began as a WPA built museum of fine arts. In 1957 the Junior League, Fine Arts Club and Rockefeller's worked to raise money for expansion and endowment. In 1960 the present structure was built, housing galleries, classrooms, a 5,900 volume library and theatre. The Center is currently funded by membership, by special contributions, including state and federal grants, and by its own activities.

The Center seems completely community oriented and thrives on the participation of local people. The small professional staff is augmented by volunteers who act as docents and staff assistants, man the box office, care for the gardens, run the restaurant and shop, make scenery and costumes and generally do what needs to be done.

The School of Visual Arts has

classes for all ages in the plastic arts, theatre and dance. I walked into the midst of the children's theatre production of *Pinocchio*; there were painted costumed children spinning like tops in their excitement. Also for children is the Yellow Space Place where they can cut and paste and see exhibits especially arranged for them. The Center houses the Little Rock Ballet, Community Theatre and a Sunday night film series. There is a local program called Neighborhood Arts offering free classes for residents in low income areas. The Visiting Artist program attracts well known artists, such as Barry Schactman, to conduct intensive workshops.

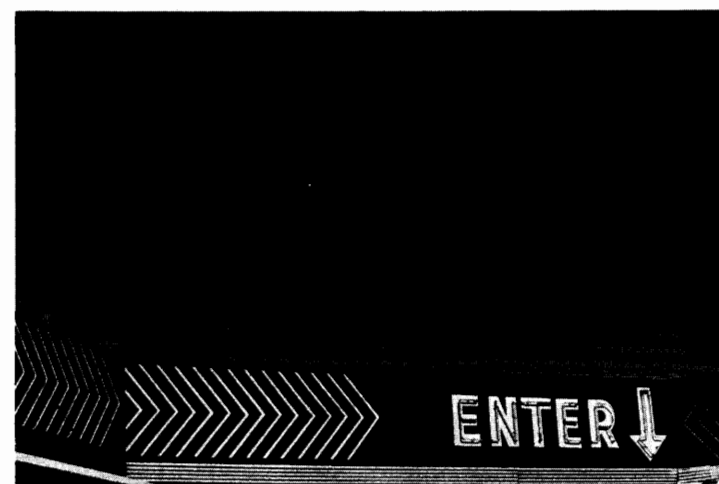
What I particularly enjoyed was the Collector's show, an annual event which brings New York to Little Rock and makes money for the Center. Works of art from nine New York galleries are sold for prices ranging from \$8.50 to \$3,500. I saw works by Miro, Toulouse-Lautrec, Matisse, Picasso and Reginald Marsh. It was a splendid opportunity to do some Christmas shopping, but once done it was very difficult to part with the gifts.

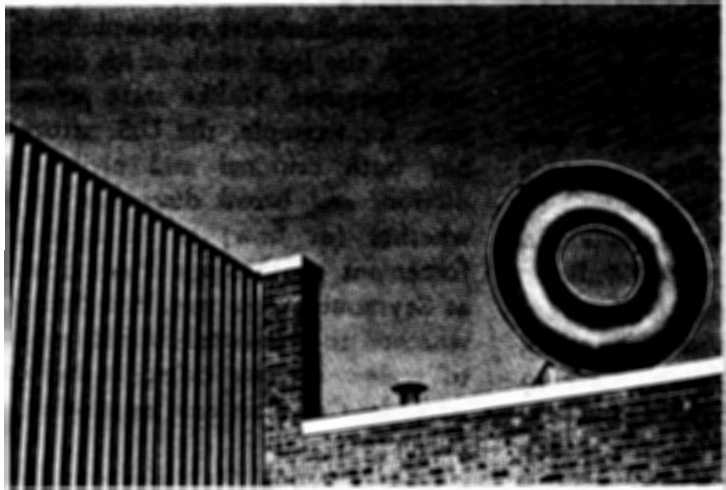
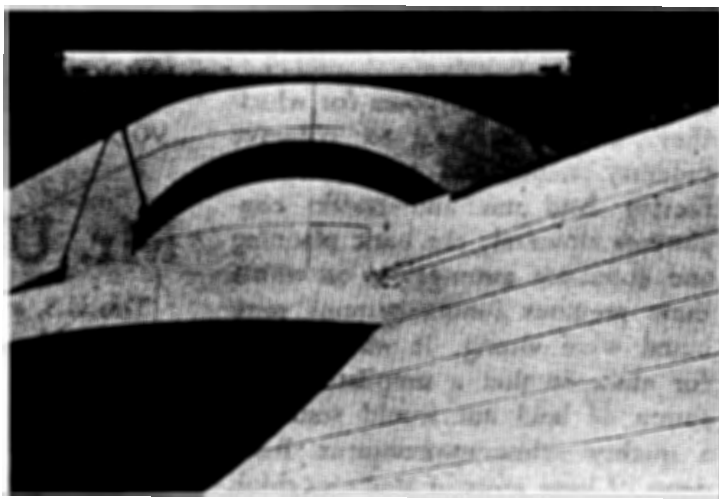
— Pat Waters

## CITYSCAPE —

CITY-SIDE UP  
by  
JOHN F. FOSTER

(Continued on back)





## DRAWING THE LINE (Continued from the front page)

transferral of its planning responsibilities to the planning staff office, which will be administratively located within the City and County executive offices. The current commissioners will become members of a new 'land use control board' which will continue to hold hearings and advise the legislative bodies — but only on zoning matters. Planning will be left to the professional planners and citizen task forces appointed by the Mayor and organized to deal with specific planning problems.

This reorganization will result in a new planning program which can more effectively coordinate and administer planning and development in the city and county, yet retain broad-based citizen involvement. Ad-

ditional State legislative actions are proposed to streamline the public hearing process for zoning amendments and to redefine the powers and responsibilities of the Board of Adjustment.

It is hoped that once these administrative and legislative changes have been accomplished, the zoning and planning process will be widely understood by the residents of Memphis and Shelby County and the foundation will be laid for an invigorated comprehensive planning process and a better living environment.

*John M. Dugan*  
Principal Planner,  
Memphis & Shelby County  
Planning Commission

## Response!

Regarding the attached article ['Paper Waste' — Vol. III, No. 25], I recently came home from Montclair, New Jersey, a town of about 40,000 people. Last year they raised \$40,000 recycling bottles and aluminum. They save all kinds of bottles and aluminum cans, also aluminum foil, even foil that has been used to cover food in the refrigerator.

At certain times, I believe, it is the Boy Scouts who pick these things up at homes. My daughter lives in this town; she told me you do not even have to separate the bottles from the cans, etc. That is done at wherever these things are taken.

I once wrote the Mayor's office here in Memphis about how much money could be raised, but my letter was not answered. At one time Montesi's had large containers in back of their store where these things could be dumped, but if these things could be put into corrugated boxes and picked up in front of homes I believe it would be better.

If Montclair could raise \$40,000 in a year recycling, think what a city like Memphis could raise.

— Mrs. Vera H. Feld

## earthly delights

### DOWNTOWN EVENTS

#### PUBLIC HEARING\*

January 26 — Area-wide Waste Treatment Management Plan — Shelby County Quarterly Court — 1 p.m.

#### EXHIBITS

##### COMMERCE SQUARE\*

Through February 18 — designs/paintings by Ken Shen Huang

#### MUSIC

##### MEMPHIS SYMPHONY ORCHESTRA with NICANOR ZABELETA

February 5 — South Hall — 8 p.m.  
February 6 — South Hall — 3 p.m.  
February 7 — Children's Concert — 12:30 p.m.

##### MEMPHIS OPERA THEATRE

February 12 — 'Daughter of the Regiment' — Dixon-Meyer — 8 p.m.

##### FRIENDS OF MUSIC\*

February 13 — William Gray, guest organist — Idlewild Presbyterian — 8 p.m.

#### THEATRE

##### ORPHEUM THEATRE

February 17-19 — 'Fat Tuesday and All That Jazz' — 8 p.m.

##### CIRCUIT PLAYHOUSE

Through February 13 — 'Tooth of the Crime'

February 17 - March 6 — 'Geography of a Horse Dreamer'

##### BEALE ST. REPERTORY CO.

'An American Night Cry: Thunder in the Index, Minstrel Boy' — plays by Philip Hayes Dean

##### PLAYHOUSE ON THE SQUARE

Through February 26 — 'Thurber Carnival'

#### FILM

FRIDAY FLICS — 4 & 7:15 p.m. — Peabody Library\*

February 18 — 'Farewell to Arms' — Gary Cooper & Helen Hayes

##### JEWISH COMMUNITY CENTER

February 8 — 'The Servant' — 8 p.m.

##### CENTER FILM SOCIETY — UT

Student Center Auditorium — 7:30 p.m.

February 4 — 'The Hospital'

February 18 — 'Sunday Bloody Sunday'

\*FREE

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