Brief History of Planning and Zoning in Louisiana

The state of Louisiana actually preceded the federal government in having constitutional provisions for land use regulations and zoning:

1921 Louisiana Constitution, Article 6, Section 17:
A local governmental subdivision may:

1. Adopt regulations for land use, zoning and historic preservation, which authority is declared to be a public purpose
2. Create commissions and districts to implement those regulations
3. Review decisions of any such commission; and
4. Adopt standards for use, constructions, demolition and modification of areas and structures.

But there was no requirement or mention of first coming up with a plan. This constitutional allowance for land use regulation and zoning was in response to previous haphazard zoning that took place in New Orleans and Shreveport. Land use regulations were meant for municipalities – not parishes – to separate residential, industrial and commercial land uses.

In 1926, the U.S. government passed the **Standard State Zoning Enabling Act (SZEA)**, which "empowered [municipal governments] to regulate…buildings and…structures…open spaces, density of population, and location and use of buildings…and land for trade, industry, residence, or other purposes." Early zoning efforts were focused on preventing overcrowding and managing population in residential and industrial districts. Lots of cities around the country were already zoning and deemed successful at it, which spurred the federal development and passage of the SZEA. The Louisiana state legislature adopted the SZEA in 1926 to allow municipalities to participate in comprehensive municipal zoning (parishes were not granted zoning authority until 1944, for airport zoning).

According to the SZEA, zoning was meant to be done according to a comprehensive plan. The SZEA states "such regulations shall be made in accordance with a comprehensive plan", but there was no legislation defining or requiring planning. The footnote for "comprehensive plan" denotes that such a plan "will prevent haphazard or piecemeal zoning; no zoning should be done without such a comprehensive study." The lack of definitions within the SZEA is explained by this footnote: "The terms used in the act are so commonly understood that definitions are unnecessary."

The SZEA requires that municipal governments appoint a zoning commission to devise and implement zoning regulations through the public process and allows that planning commissions can serve as zoning commissions. When the Louisiana state legislature adopted the SZEA in 1926, they did not include any clause offering freedom to appoint an existing planning commission as a zoning commission. Furthermore, the Louisiana law did not require that municipal governments hold public hearings and receive reports and recommendations from a zoning commission before making a decision. As a result, municipal government bodies could proceed with zoning however they saw fit and without suggestions from any sort of board or commission. As a result, zoning occurred without any planning and at the decision of the political bodies in charge. In 1928, the Louisiana state legislature adopted Act 234, which granted authority to police juries to regulate subdivisions and layouts of streets and parks. Again, there was no requirement or mention of planning before deciding on regulations.

Also in 1928, the U.S. Supreme Court made a decision that upheld a zoning ordinance in ***Village of Euclid v. Ambler Realty Company***. To briefly describe the case, Ambler Realty Company (Ambler) owned land in the Village of Euclid (Village), which is in Cleveland, Ohio. Village developed an ordinance to prevent industrial growth in Euclid. Ambler sued on the grounds that the zoning ordinance reduced the value of the land and limited its use, thereby depriving Ambler's liberty to develop its property without due process. The lower court decided that the zoning ordinance did indeed constitute a taking of Ambler's property, and therefore, Ambler did not need to follow ordinance requirements to file a complaint with the Euclid zoning board. At the U.S. Supreme Court level, however, the Court decided that the zoning ordinance was not an unreasonable extension of the Village's police power and was therefore not deemed unconstitutional. Euclid v. Ambler was the groundbreaking case to uphold zoning ordinances as a form of local control over nuisances and development.

In 1946, the Louisiana state legislature adopted the **City Planning Enabling Act (CPEA)** passed by the U.S. government in 1928. The CPEA granted planning power to municipalities: "any municipality is hereby authorized and empowered to make, adopt, amend, extend, add to, or carry out a municipal plan as provided in this act…" The CPEA describes the duty of municipal planning commissions "to make and adopt a **master plan for the physical development** of the municipality…" Similar to the SZEA, the CPEA does not clearly define master plan: "by this expression is meant a comprehensive scheme of development of the general fundamentals of a municipal plan. An express definition has not been thought desirable or necessary."

The notes on "physical development" emphasize that any plan should be focused on limiting the problems associated with inner city life. "The word 'physical' is used so as to make it plain that the planning commission should limit its activities to those problems of city life which are to be worked out through influencing the physical development of the territory…The plan shall be made with the general purpose of guiding and accomplishing…harmonious development of the municipality… including… adequate provision for traffic…safety from fire and other dangers…provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities…In the preparation of such plan the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality and with due regard to its relation to neighboring territory…"

At this point in time (1946), the purposes of land use planning and zoning were to combat the negative impacts of inner city urban life. The CPEA did not extend to areas outside of cities and municipal territories. Both the SZEA and the CPEA put the burden on states to define "comprehensive plan" and to enforce it through state legislation. Again, Louisiana municipalities were allowed to adopt land use and zoning regulations, but no comprehensive plan or master plan was ever referenced or defined in state legislation. As a result, zoning happened without planning.

Over the years, Louisiana state law related to planning was amended to where it currently gives the authority, choice and empowerment of planning to both municipalities and parishes, under **Louisiana Revised Statutes Title 33**, Municipalities and Parishes, Part IV, Physical Development of Parishes and Municipalities. The legislation defines master plan as "a statement of public policy for the physical development of a parish municipality adopted by a parish or municipal planning commission… any such

plan shall provide a general description or depiction of existing roads, streets, highways, and publicly controlled corridors…any such plan…may include a commission's recommendations for the development of the parish or municipality…among other things,

- Location, character and extent of transportation routes, roadways, public park spaces, aviation fields, and other public ways, grounds, and open spaces;
- General location of public buildings, schools, and other public property;
- General character, extent and layout of public housing and the replanning of blighted districts and slum areas;
- General location and extent of public utilities and terminals…for water, light, sanitation, communication, power, transportation, and other purposes;
- The removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities, or terminals."

Once again, the master plan definition does not distinguish between zoning and comprehensive planning. The suggested components of a master plan are related to the built and urban environment and include no provisions for flood protection, hazard mitigation or natural area preservation.

The language of L.R.S. Title 33 is similar to that of the CPEA in that it gives parishes and municipalities the option of forming a planning commission and developing a plan. Since having a commission is an option, planning is still not a requirement for the state of Louisiana. However, as of 2004, the law requires that any existing master plan be considered by the local government before adopting zoning ordinances or regulations.

Sources:

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