

HENRICO COUNTY: A STUDY OF ZONING APPLIED

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INTRODUCTION

Problem and Objective

Despite the fact that the General Assembly of Virginia passed enabling legislation in 1938, authorizing all counties in the Commonwealth to zone, to date only 16 of 98 counties have done so. One of the first counties to enact zoning legislation was the County of Henrico, one of two counties which surround the City of Richmond. In 1930, within two weeks after being granted the authority to zone by the General Assembly, the Board of Supervisors of Henrico County started proceedings which led to enactment of its Zoning Ordinance.

Henrico County has thus had over three decades experience in rural zoning. During this 1/3 of a century, the County has transformed from a predominantly rural setting to an urban-suburban one. Coincidental with the adoption of its Zoning Ordinance, the County changed to the County Manager form of government. Henrico County's great experience with a rural zoning ordinance accompanied by a stable, efficient government offer an excellent laboratory for study.

While there is much literature available on how to zone and why to zone, many questions about the implementation of a zoning ordinance on a community remain unexplored. How do zoning ordinances evolve? What forces spur their evolution? What effects do the manner of presentation and public reaction to proposed changes have? What are the consequences of zoning changes on real estate values?

This study has several objectives. By examining the County we can trace how rural zoning has evolved in Henrico County in response to population growth. The County's first Ordinance was very broad in scope. As times changed and population grew, the County found it necessary to revise and strengthen its Ordinance, until today it only remotely resembles the original Ordinance. The evolution of this highly complex instrument is a model worthy of study and should provide guidance for other counties.

Most zoning revisions ensue because of some weakness in the Ordinance. The type of zoning changes that were requested, the ones that were granted, and the manner in which they were presented will be examined. These requests, for both changes in the Ordinance and relief from the Ordinance, will be studied on their own right and in relation to how they influenced revisions in the Zoning Ordinance. The effect of zoning and variance decisions on land values will also be reviewed.

These questions are examined individually and collectively to provide officials in counties where zoning has not been used the benefits of Henrico's experience. Zoning laws have been studied extensively, but little has been done on how rural zoning "works out" in practice. This study was undertaken as a beginning of an analysis of "zoning in action."

Procedure

In addition to having had an Ordinance enacted for over three decades and a stable, efficient government, Henrico County had all

necessary information and records concerning its Zoning Ordinance available. All data for this study were gathered from records in the Henrico County Court House and the Henrico County Office Building, located in Richmond.

All records of the Board of Zoning Appeals, Zoning Commissions and Planning Commissions are located in the Planning Administrator's Office. Records prior to 1956, contain only the most rudimentary data. However, the proceedings of all meetings since 1956, were taken in comprehensive detail by a stenographer. Data obtained on variance and zoning requests from 1933 to 1960, were recorded on a questionnaire form. Because of the detailed data available, all cases since 1960, which fell into the sample, were copied.

After the sample was selected by a systematic, random procedure, zoning requests were examined for action taken by the Board of Supervisors. When available, these data were obtained from the records of the County Manager. Otherwise, the information was obtained from the records of the Board of Supervisors located in the Court House.

Assessed values of real estate were obtained from the Office of the Real Estate Assessor. This was made possible through the immediate notification of the Real Estate Assessor of all zoning changes. Only values since 1960 were studied because assessments in this period more accurately reflect real estate value. Assessments are made at 40% of actual value. There was no general "across the board" raising of assessments until 1966.

Henrico County has revised its Zoning Ordinance on three occasions: 1945, 1953, and 1960. Two of these occasions offered convenient breaking points for periods of study--the years 1933-1945 were considered the first period, 1945-1960 the second period, and 1960-1965 the third period.

Because of the different number of requests in each time period, the sampling rate varied considerably with the period of observation. Since this was a study of the transformation of a locality from a rural to an urban-suburban county, it was decided to include in the sample all requests which involved a transferring of land from an agricultural use. In the sampling of zoning requests, the sampling rate was 50% of a total population of 105 in the first period, 10% of a total population of 1301 in the second period, and 33% of a total population of 454 in the third period.

The sampling procedure for petitions of relief heard by the Board of Zoning Appeals was similar. Both variance requests and conditional use permit requests were included in the sample. For the first two periods, the sampling rates were the same as in zoning requests, 50% and 10%, respectively, from total populations of 192 and 1453. Because of the relatively large number of petitions of relief in the last

period, a 20% sample was taken from a population of 949. Table 1 sorts the population and sample on type of request.¹

Since the data were gathered by periods, all analysis and observation were done in the same manner. Each of the 1492 observations in the sample was coded and all pertinent data placed on an IBM card. Sorts and tabulations were made to study relationships between variables within and between time periods. All figures and percentages presented in the study refer to the number of sample observations rather than population totals unless otherwise noted.

¹ The sample will not be an exact percentage of population because of inclusion of all agricultural requests and designation discrepancies.

Table 1. Number of Requests by Type by Period,
Total Population and Sample

TOTAL POPULATION				
	<u>Period I</u>	<u>Period II</u>	<u>Period III</u>	<u>Total</u>
Variance Requests	192	1453	949	2594
Zoning Requests	105	1301	454	1860
Use Permits ¹	-	217	491	708
Total	297	2971	1894	5162
SAMPLE				
Variance Requests	73	135	185	393
Zoning Requests	70	648	200	918
Use Permits	14	37	107	158
Other ²	5	12	6	23
Total	162	832	498	1492

¹ Use permit requests for Period I are included in variance requests.

² "Other" includes layout plan approvals, etc.

REVIEW OF LITERATURE

While there is much literature available on zoning and rural zoning, surprisingly little has been written on how ordinances are implemented and the effect of zoning provisions on the development of communities.

Such authorities as Edward M. Bassett, R. A. Walker and Alfred Betteman have traced the history of urban zoning and its present and future effects on the urban community. E. M. Bassett's Zoning has become¹ a standard in the field.

In the field of rural zoning, Solberg, has written a number of articles and pamphlets. In a 1953 bulletin he discussed the hows and whys of rural zoning. This comprehensive work placed great emphasis on the adverse effect a failure to zone will have on a community. The pamphlet was similar to an earlier study published in 1952, that emphasized the state of rural zoning in the country at that time.² A comprehensive study of the various state enabling acts together with uses permitted in local ordinances was included. A similar study was conducted by the same author for the western part of the United States in 1964.³

1

Bassett, Edward M., Zoning, New York, 1927.

2

Solberg, E. D. The Why and How of Rural Zoning, USDA, Agriculture Information Bulletin No. 196, Washington, D. C., 1958.

3

Solberg, E. D., Rural Zoning in the United States, USDA, Agricultural Information Bulletin, No. 59, Washington, D. C. 1952.

4

Solberg, E. D., County Zoning in Public Land States in the West and in Hawaii, Economic Research Service, USDA, Washington, D. C., 1964.

Solberg published several articles in Land, The Yearbook of Agriculture, 1958.¹ In one article he discussed the possibilities of using zoning as a stabilizing force in the Dust Bowl Area. Dividing the area into agricultural, grazing, and natural segments, he could foresee zoning as a great new tool to protect this vulnerable area.

Solberg, et. al.,² in a 1962 publication, studied the planning and regulatory powers granted counties and agencies of the State of Arkansas. They concluded that economic development and an orderly plan for land use are necessarily interlaced.

Wisconsin, for a variety of reasons, was the first state to permit rural zoning. As a result, much rural zoning literature has come from the University of Wisconsin.

The late Professor George S. Wehrwein was an authority in the field. In a series of publications, Wehrwein probed all facets of rural zoning. After one study he came to the conclusion that unless settlement of unproductive farm land was restricted by county and state action, local governments would face heavily increased expenditures for relief and public services without a comparable increase in tax revenues.³ In a

1

Solberg, E. D., "Planning For Stability in A Great Area," Land, The Yearbook of Agriculture, 1958.

2

Solberg, E. D., Witte, A. M., Martin, L. R., Land-Use Planning and Zoning in Arkansas Rural Areas: Legal and Economic Aspects, Agricultural Experiment Station Bulletin 657, Univ. of Arkansas, Fayetteville, Cooperating with the ERS, USDA, 1962.

3

Wehrwein, G. S., "Rural Zoning in Your County," Bureau of Agricultural Economics, USDA, 1938.

study made for the article, Wehrwein found that public expenditures on scattered developments were greater than revenues by better than a nine to one ratio. After his untimely death, other members of the University of Wisconsin staff continued the work he had started in this field.

Another series of articles on rural zoning was written in the late 1930's by Hurlburt. In one article he thoroughly examined the expanded planning and zoning legislation enacted by the 1937 Pennsylvania legislature.¹ Two problems concerning the zoning of rural areas in the East disturbed the author. How, in the absence of defined markers, could areas be accurately delineated and how could district bounds be defined by other than metes and bounds? Secondly, because of smaller areas, any rural zoning in the East would necessarily mean a large number of relatively small use districts. This, the author was afraid, would lead to little more than spot zoning.

In another article² Hurlburt took issue with the oft-stated definition of rural zoning: "what Wisconsin is doing." Those who used this definition asserted that if conditions were not comparable to those in Wisconsin, then rural zoning was useless. This was ridiculous, Hurlburt asserted. While the objectives of rural zoning may vary from state to state or area to area, the basic concepts and principles remain constant.

1

Hurlburt, Virgil, "Pennsylvania Planning and Zoning Enabling Acts" Journal of Land and Public Utility Economics, Volume XIII, No. 3, August, 1937, p. 315.

2

Hurlburt, Virgil, "Rural Zoning for Missouri?" Journal of Land and Public Utility Economics, Volume XVI, No. 2, May, 1940, p. 152.

1

In a rebuttal to Hurlburt's Missouri article, Hammar¹ questioned the value of rural zoning for areas such as the Missouri Ozarks. Anything zoning had to offer the area in question, Hammar said, was occurring anyway. For example, rural zoning could control population density, but the population of the Ozarks was dwindling through emigration. The only benefits that he could see were negative. Zoning is itself negative according to Hammar for it hinders development. Instead of zoning the Ozarks, much more could be accomplished if a coordinated program of resource restoration were undertaken. At the same time local governments must be reorganized to put them on a sound fiscal basis.

There have been several primers on rural zoning published by various research organizations. The Bureau of Agricultural Economics in 1940 published such a work.² Describing what zoning could and could not do, the Bureau called zoning just one of many tools available to planning committees. Rural zoning was judged to be at its best when used with other measures.

In an effort to get people thinking about rural zoning after World War II, Wolfgang³ wrote a similar article. Answering the most often asked questions on zoning, he stressed the necessary role rural zoning would have to play to control Post-War expansion.

1

Hammar, C. H., "Regulation of Development for the Missouri Ozarks," Journal of Land and Public Utilities Economics, Vol. XVI, No. 2, May, 1940, p. 158.

2

Bureau of Agricultural Economics, "Rural Zoning and Land-Use Planning" County Series No. 7, USDA, Washington, D. C. 1940.

3

Wolfgang, Louis A., "Your Community and Township Zoning" Michigan Ag. Experiment Station Circular 134, University of Michigan, 1943.

Mason conducted a similar study for the Virginia State Planning Board in 1945.¹ The Board at the time devised a single, comparatively brief statement on zoning for rural areas in Virginia. This work was neither a blueprint for rural zoning nor a technical study but was rather a primer on rural zoning for laymen. This bulletin superficially covered all facets of rural zoning in an effort to be of use as a guidepost in pointing out the direction and steps that must be taken in the development of a rural zoning ordinance.

In 1952, the Housing and Home Finance Agency published a comprehensive digest of basic municipal and rural zoning enabling statutes tabulated by states.² Included was a handy chart of the essential provisions of these statutes, together with a typical zoning enabling statute. A limited amount of judicial material on special zoning problems was given.

The premature subdivision of land has always been a serious problem for rural planners. In a study of this phenomenon and its consequences, Cornick, using most of New York State for his laboratory, detailed the disastrous effects of "leapfrog" subdividing upon all aspects of the community.³ Land speculation by developers was the chief cause of premature subdivision. Some proposals of control were made, notably more use of zoning.

1

Mason, John E., Zoning for Rural Virginia, Virginia State Planning Board, Richmond, Virginia, 1945.

2

Housing and Home Finance Agency, Comparative Digest of Municipal And County Zoning Enabling Statutes, Washington, D. C., 1952.

3

Cornick, Philip H., Premature Subdivision and Its Consequences, New York State Planning Council, Columbia University, 1938.

REVIEW OF ZONING

Zoning as we know it today is entirely a product of the Twentieth Century. Its forerunners consisted solely of covenants within deeds and spot regulations primarily governing tenements. The demand for zoning regulations as we now understand them began in large cities as a result of growing congestion with its impairment of access to air, light, etc.

At the turn of the Century it was believed that the only restrictions that could be placed on private property were through deeds of conveyance or sanctions against nuisances under the common law. The exercise of eminent domain was briefly considered, but the method was too clumsy to be effective.

Because of early court decisions, many eminent lawyers declared that zoning was a confiscation of property and not merely responsible legislation. However, in 1909, the United States Supreme Court upheld a Boston ordinance dividing the City into height districts for safety purposes. This was the first of several favorable court decisions upholding the right to zone. The courts held that the power to zone comes from the state's inherent police powers, the most comprehensive and pervasive of all the powers of government. The United States Supreme Court in the landmark ¹ Euclid Case upheld the constitutionality of zoning.

The constitutionality of zoning having been upheld, urban zoning ordinances rapidly spread throughout the country. Los Angeles and New York were the first cities to adopt comprehensive zoning ordinances.

¹

Village of Euclid, Ohio v. Ambler Realty Co. 272 vs. 365. ct. 114.

The first enabling acts empowering counties to establish zoning districts were passed in the early 1920's by legislatures of California and Georgia. In 1923 the legislature of Wisconsin passed enabling legislation permitting counties next to urban areas to zone their territory. This privilege was extended in 1929 to all counties in Wisconsin. Rural zoning was used in Wisconsin as a means of controlling both location and density of population. Some counties were encountering financial difficulties in providing necessary public services to their widely scattered populations. Since the 1920's the vast majority of states have given their localities the power to zone. Though over 3/4 of the counties in the country are empowered to zone, less than 1/3 have done so to date.

ZONING IN VIRGINIA

Virginia cities and towns have had authority to adopt zoning ordinances since the passage of the Municipal Zoning Act of 1926.¹ This Act did not extend the right to zone to counties of the Commonwealth, although since 1915, counties have had the authority to appoint a planning commission "to make and adopt a master plan for the physical development of the unincorporated territory of the county."²

To coordinate these planning efforts, the Virginia State Planning Board was created by executive order in 1933. The Board became a statutory agency under an act of the General Assembly in 1938.

1

The major points of the Code of Virginia pertaining to zoning are a part of the Appendix.

2

Mason, op.cit., p. 3.

In 1927, special permission was given nine counties in the Commonwealth to zone through the Special County Zoning Act of 1927. This act permitted those counties with population densities of greater than 500 people per square mile to adopt a zoning ordinance. In 1930, the Zoning Act of 1927 was amended so as to extend the permit to zone to any county in the Commonwealth adjoining a city having a population greater than 170,000 as shown by the last United States Census.

The General Assembly finally gave all counties permission to adopt and enforce zoning ordinances through the General County Zoning Act of 1938. Though all counties in the Commonwealth have had the power to enact zoning legislation since that time, through mid-1966 only 16 counties have enacted zoning ordinances. All of these counties, with an exception or two, surround the major cities of Virginia, such as Washington, Norfolk, and Richmond.

Definitions

Zoning vs. planning: Zoning is a tool by which society carries out a course of action on the use of land or property. It is used as a means to implement planning, the plotting of what a community aspires to in the future.

Permissive vs. restrictive ordinances: Zoning ordinances are of two types--permissive or restrictive. The permissive type ordinance permits only those uses which are specifically authorized in each district, whereas the restrictive type permits any use or structure which is not

expressly prohibited. The permissive type ordinance is much preferred for it avoids the problem of writing new restrictions into the ordinance when new problem uses appear.

Interim ordinance: Most communities become interested in zoning only after they have been threatened by some objectionable use. By law, all enabling legislation prescribes a slow and single method to enact an ordinance. Since a comprehensive plan would take too long a time under the circumstances, the locality in an effort to protect itself often turns to the interim ordinance. Most planners oppose enactment of interim ordinances because they are hurriedly enacted and unfortunately too often remain as the only zoning authority for the community.

Building Restrictions: A substantial portion of every zoning ordinance relates not to the use which may be made of land within a given district, but to the physical aspects of the structures that are placed thereon. The regulation of height and bulk of buildings so as to permit more light and air serves the public through improved health and welfare. Density of population is also limited in this manner. The limiting of density of population whether by building restrictions or minimum area requirements is essential for health, social, and psychological reasons. Furthermore, this permits reasonable calculation of total population and therefore the requirements for public services.

Variance: A variance primarily seeks relief from restrictions of area, density, setback and sideline restrictions imposed by the zoning ordinance. If granted, this variance is a permit to erect, alter, or use a structure for a use in a manner other than that prescribed by the

restrictions of the ordinance. They are customarily "practical difficulties" which arise when a property or structure cannot, as a practical matter, be used as a permitted use without coming into conflict with certain ordinance restrictions.

Use permit: Special exception variances, more commonly known as use permits, must be obtained before some possibly objectionable uses of land may be conducted. These are temporary permits which grant the holder the privilege of conducting an operation on the land in question. For example, before a community swimming pool may be operated in a residential area, a use permit must be obtained to insure the operation does not adversely affect adjacent property owners. The same body that hears variance requests hears requests for use permits.

Zoning redistricting: Zoning redistricting or reclassification is a change in the designated use of an area. Since this involves a redrawing of the district maps which are a part of the zoning ordinance, a zoning reclassification is an amendment to the ordinance itself. As such it must be passed upon by the legislative body of the locality. This is usually done after an advisory body has conducted a public hearing on the request. Requests for redistricting or amendment may be initiated by an individual or by the legislative body.

Spot Zoning: Spot zoning is the practice whereby a single lot or small area is granted privileges which are not extended to other land in the vicinity. It is the singling out of a small parcel of land for a use classification totally different from that of the surrounding area for

the benefit of the owner of such property.¹

Hardship: Hardship is implicit in zoning; every zoning ordinance imposes some degree of hardship on all property owners. However, the restrictions on each parcel of property are compensated for by restrictions on neighboring property. The inability of each property owner to put his property to a desired use is balanced by the fact that his neighbor's property cannot be so used as to injure his. Thus at the same time, the zoning ordinance both benefits and burdens. Such hardship, consistent with the hardship imposed on all other pieces of property in the district, is not a ground for a variance.

1

Spot zoning may also exist in reverse if one lot has more burdens upon it than others similarly situated.

THE COUNTY OF HENRICO

Topography

The County of Henrico lies astride the fall line along the north side of the James River 125 miles inland from the Atlantic Ocean. About 1/2 of the County lies in the central Plains, 1/4 in the Piedmont and 1/4 in the transition zone between. The County drains about equally into the James River which forms the southern bound and the Chickahominy River which forms the northeast bound. Most of the surface relief is undulating or rolling. There are some fairly extensive areas of bottomland along the two rivers, some of which is poorly drained and subject to overflow. Elevations in the County vary from sea level on parts of the James River to about 350 feet above sea level northeast of Richmond.

The southeastern section of the County is underlain by mostly sand, gravel, clay and marl strata. Consequently a considerable portion of the area has a high water table. The northwestern part of the county, being in the Piedmont region, is underlain in part by granite, shale, and sandstone.

Though her 156,600 acres are not naturally productive, the County is well suited for agriculture.

History

The first settlers to arrive in Virginia were city dwellers from the London area. Consequently the form of government they established here was similar to the city from whence they came.

In 1619, twelve years after the settlement of Jamestown, four corporations were founded in the Virginia Colony. They were Elizabeth City, Charles City, James City, and Henrico.

Henrico was named for Henry, Prince of Wales, eldest son of James I of England. Like the other corporations, Henrico was divided into boroughs, towns, and kindreds. Each borough was represented by two bur-
gesses in the first General Assembly which met in 1619.

The original four corporations that comprised the Virginia Colony were dissolved in 1634, and the Colony in turn was divided into eight shires or counties. Henrico, which was one of the original shires, at its formation embraced all land between the Chickahaniny and Appomattox Rivers and extending indefinitely westward.

With one minor exception Henrico County had its present outer bound-
aries fixed by the formation of Goochland County in 1727, and Chesterfield County in 1749. That minor exception was the transfer of Farrar's Island in the James River to Chesterfield County in 1922. The only other changes in the area of the County have been annexation losses to the City of Richmond.

Richmond, which was wholly within the County, was incorporated in 1782. The present site of Richmond was not settled until between 1660 and 1675. First known as Byrd's Warehouse, the City of Richmond itself was not laid out until 1742.

Additional areas were annexed in 1793, 1810, 1867, 1892, 1906, 1914, and 1942. In all, the City has taken 28 square miles from the County.

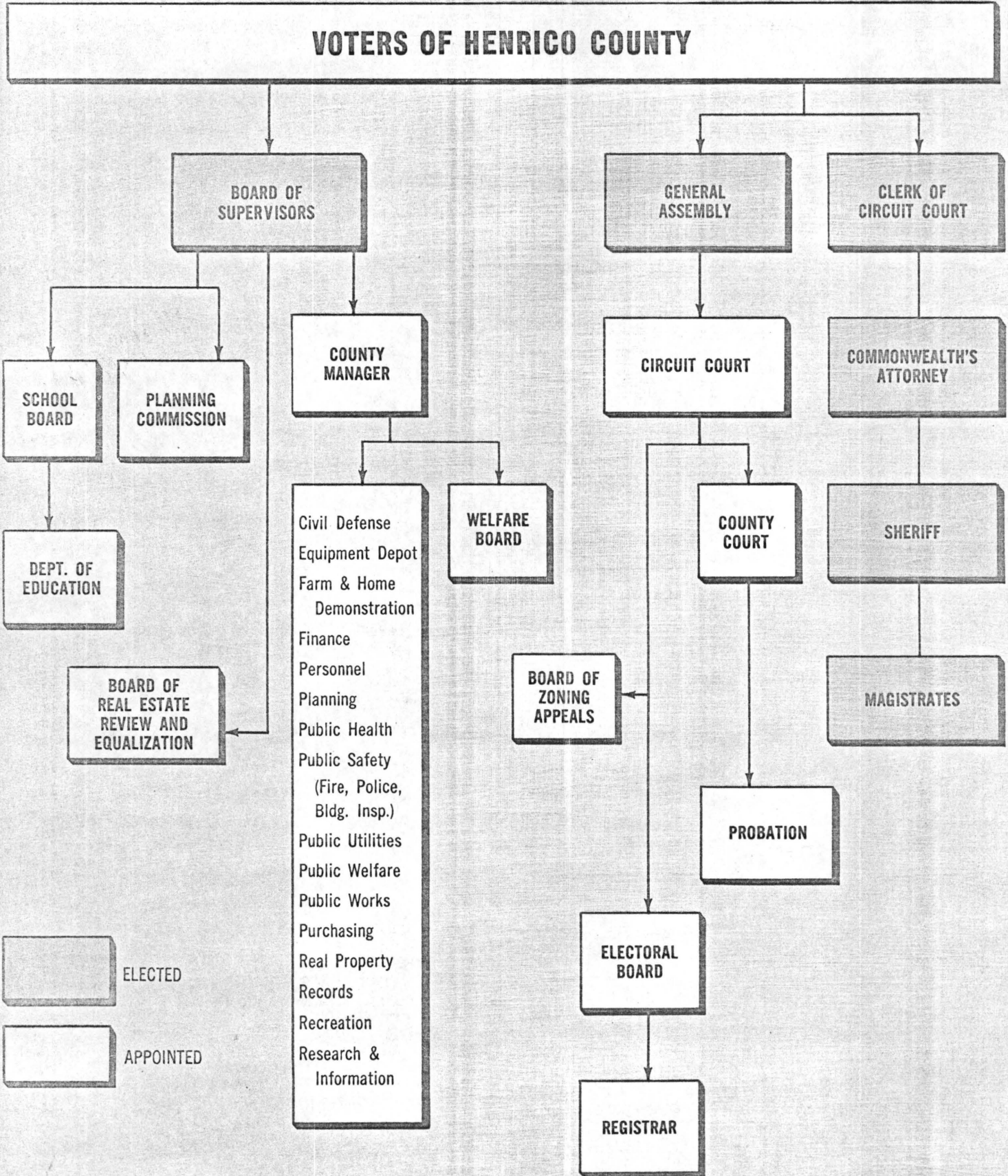
In 1961, the residents of the County, voting as a body, defeated a proposal that would have merged the County with the City of Richmond creating one of the largest cities in area in the world. The merger proposal carried in Tuckahoe District, the most urbanized, but failed to carry in the other districts; residents of the City passed the proposal by an overwhelming margin.

Having been rebuked at a merger, the City immediately brought an annexation suit against the County. After a long, bitter battle, the City, much to its dismay, was offered only 17 square miles of the County, most of it in the highly developed Tuckahoe District. The small area granted did not come cheap, for Richmond was to pay 50 million dollars for this mostly residential area. The City administration, feeling the cost was out of line with the benefits, refused the annexation grant. Thus Henrico County successfully defended itself.

County Manager Form of Government

The citizens of Henrico County in a special referendum held in September, 1933, voted approval of the County Manager form of government. After Willard F. Day had been appointed the County's first manager, the new government took office March 15, 1934. By being one of the first counties in the country and the first in Virginia to adopt such a form of government, Henrico County received national attention. To date the County has had only four managers. Currently there are only 28 counties in the country with the County Manager form of government.

ORGANIZATION OF HENRICO COUNTY GOVERNMENT



ELECTED
 APPOINTED

Population

At the time of the first census in 1790, total population of Richmond and Henrico County combined was only 12,000. Population in the County grew gradually and at the time of the enactment of both the County Manager form of government and the Zoning Ordinance in the early 1930's, numbered just over 30,000.

During the decade of the 1930's, population increased by 10,000 with most of the addition coming in areas adjacent to the City Limits. However, the 1942 annexation suit, successfully pursued by the City of Richmond, cut population back to the pre-1930's level.

The western part of the County lay directly in the path of Richmond's natural growth. As a result total population increased from 34,000 in 1945, to 70,000 in 1952. By the 1960 Census the County counted over 117,000 residents. This was a 104% increase over the 1950 population while the City itself lost almost 5% of its population during this time period. The urban population of the County in this same period increased by 185%. Projections call for a County population of 205,000 by 1980.

Today, just under 140,000 citizens occupy its 244.7 square miles. Seventy-one percent of the County's population is urban. Only 1% of the population live on a farm, while the remaining 28% are rural non-farm.

Economically the County of Henrico is tied to the City of Richmond. Most public utilities in the County are extensions of City systems. Most County residents earn their livelihoods in Richmond. Henrico may best

be described as Richmond's master bedroom. All economic indicators, such as income and education, rank Henrico County third in the Commonwealth, trailing only Arlington and Fairfax Counties.

Median family income as of the 1960 Census was \$6,937. While in 1960 only 8% of the population had incomes of under \$3,000 a year, 20% had incomes over \$10,000 a year. Almost 60% of the working force are in white collar positions while another 25% are employed in manufacturing. Henrico's unemployment rate ranks consistently among the lowest in the nation.

As is the case in other areas where younger people settle, Henrico County's school population has expanded more rapidly than the population as a whole. While population doubled in the County during the last decade, school population tripled.

Table 2. Population of Henrico County by Magisterial Districts:
1920-1966*

District	1920	1930	1940	1950	1960	1966
Brookland	5200	8669	13657	20623	38845	43972
Fairfield	6370	10191	11649	18805	32825	33871
Tuckahoe	3476	6603	11123	11095	38326	45542
Varina	3926	4847	5531	6817	8723	9112
Total	18966	30310	41960	57340	117339	132497

Table 3. Population of Richmond Standard Metropolitan Area:
1930-1960*

Locality	1930	1940	1950	1960
Richmond	182929	193040	230310	219958
Chesterfield	7274	10674	40400	71197
Henrico	30310	41960	57340	117339
Total	220513	245674	328050	408494

* All data from U. S. Census

Table 4. Population Characteristics of Henrico County:
1930-1960*

Characteristic	1930		1940		1950		1960	
	No.	%	No.	%	No.	%	No.	%
No. rural farm	6834	22.5	6801	16.2	5103	8.9	1525	1.3
No. rural non-farm	23476	77.5	35159	83.8	23051	40.2	32503	27.7
Urban					29198	50.9	83338	71.0
School population	7789		8572		8547		24969	
Median yrs. education			9.6		10.9		12.1	

Table 5. Median Income:
Henrico County vs. Richmond*

	1950	1960
Henrico County	\$3604	\$6937
Richmond	2555	5156

Table 6. Per Capita Income:
Henrico County vs. Richmond *

	1950	1960
Henrico County	\$1541	\$2559
Richmond	1806	2323

* All data from U. S. Census

EVOLUTION OF THE ZONING ORDINANCE: 1930-1966

Drawing of the Ordinance

On March 24, 1930, the General Assembly of Virginia amended the Zoning Act of 1927, to extend the Act to cover any county in the Commonwealth adjoining a city having a population of 170,000 or more as shown by the last United States Census.

On May 6, 1930, the Board of Supervisors passed an interim ordinance establishing zoning districts in Henrico County and regulating the use of lands therein until a permanent ordinance could be enacted. The County was divided into two zones: residence and nonresidence districts. Nonresidence districts were defined as those tracts used for business or industry or at least 1/2 the block was used for either purpose. All other lands were classified as residence districts. Conversion of land from a residential to a nonresidential use could be accomplished by the petitioner obtaining written consent of 3/4 of the residential property owners on his side of the block and directly across the street. This Ordinance took effect immediately after approval by the Judge of the Circuit Court on May 26.

With the County of Henrico meeting the requirements of the amended Act, the Board of Supervisors sought to avail itself of the Act's benefits. Thus on June 3, 1930, as required by the Act, the Board of Supervisors appointed a Commission of five members known as the Zoning Commission, whose duty was to recommend the boundaries of the various districts and the property requirements to be enforced therein.

A committee was appointed to report what steps should be taken to divide the County into zoning districts, to fix the boundaries and property requirements, and the probable cost of each proceeding.

At its next meeting on June 25, 1930, the Committee reported to the Commission that the estimated cost of preparing maps showing the entire county was \$295. Furthermore, the employing of a man to check on the location, character, and use of all buildings in the County would be an additional \$1200. A detailed report of these costs was presented to the Board of Supervisors at their July 1, meeting.

For the next two years the Zoning Commission, after making an extensive survey of the County drew up the Zoning Ordinance. The job was complicated by the fact that there were no precedents anywhere for the zoning of a county similar to Henrico. As the Ordinance reached its final stages, there were public hearings held in various sections of the County after distribution of handbill notices and paid newspaper notices.

Responses to these public hearings were varied. At one evening meeting in September, 1932, despite extensive notice, only eight interested parties attended. After a short discussion over zoning along Williamsburg Road, the meeting was adjourned.

However, at another public hearing in the Tuckahoe Magisterial District, response was overwhelming. Many practical suggestions, for the most part concerning Tuckahoe District, were given the Commission.

Finally on July 5, 1933, the Zoning Commission, having completed their task as prescribed by statute, presented the final draft of the Ordinance, together with the zoning maps, to the Board of Supervisors.

Ordinance of 1933

Ordinance Number Two under the County Manager form of government was adopted by the Board of Supervisors September 5, 1933, and after two amendments was approved by the Circuit Court of Henrico County on December 16, 1933.

The Ordinance was divided into 23 major sections. These sections in turn could be classified under three major topics: district uses, building regulations, and administrative regulations. Though revised three times, the greater part of this Ordinance remained intact until 1960.

Use Districts: For the purpose of zoning, the County was divided into four districts: residence, business, industrial, and agricultural. The location and boundaries of the districts were established and shown on six building district maps, which were an integral part of the Ordinance. Because of the limited number of use classes, uses within the same district were necessarily varied as can be seen from Table 7. Nonetheless, it successfully segregated the major conflicting uses. Although there has been some minor shifting of uses between the broad classifications, the original framework of uses remains essentially intact today.

Building Regulations: In the discussion of a zoning ordinance, the building regulations sections are often overlooked. Yet the power to regulate not only use, but the structure itself was granted by the same enabling legislation. The height of buildings, setback building lines, rear yards, side yards, courts and accessory buildings were controlled by the new Ordinance.

Table 7. Permitted and Restricted District Uses: 1933-1945

"A" Residential	"B" Business	"C" Industrial	"D" Agricultural
<p>One family dwellings, duplexes, professional offices, home occupations, churches, schools, clubs, non-profit recreational facilities, community buildings, hospitals, government buildings, passenger stations, electric power facilities, professional signs, private garages, cemetaries, apartment houses, nurseries, farming with restrictions</p>	<p>Any use permitted in an "A" district, plus: banks, hotels, theaters, gasoline stations, any retail trade, private garages, private stables, auto repair shop</p> <p>Uses Restricted From "B" Districts:</p> <p>Bottling works, carpet cleaning, stone yards, blacksmith, coal, coke, and wood yards, storage yard, contractor's yard, any kind of manufacture not clearly incidental to a retail business. Any use prohibited in "C" district</p>	<p>Any legal use was permitted if it did not emit toxic fumes or was not prohibited in the Heavy Industry District of the Zoning Ordinance of the City of Richmond.</p>	<p>Any use permitted in an "A" District, plus farming with no restrictions</p>

Over 1/2 of the Ordinance contained procedure, enforcement, and other administrative information. The purpose and legality of the Ordinance was first set forth, followed by a list of definitions.

Existing nonconforming uses are a problem in the enforcement of any new ordinance. However, any lot, building, or structure at the time of the enactment of the Ordinance that did not conform to the provisions of the Ordinance and which was not prohibited by any other ordinance was allowed to continue. Interestingly, changes of title or possession had no effect upon permitted use. Discretionary power was given the Board of Zoning Appeals to grant up to a 25% area expansion of the nonconforming use. However, should over 50% of the then reproductive value of the building be destroyed by any means, the restored building or use would have to conform to the provisions of the Ordinance. Similarly, if a nonconforming use was abandoned for a period exceeding two years, any use thereafter had to conform to the Ordinance.

All future structures and uses in the County were to be in complete conformity with the Ordinance. However, building permits granted prior to enactment of the Ordinance were valid and required no changes. If construction was not started within 90 days or construction was discontinued for at least six months on a project, all further construction had to conform to the Ordinance.

Enforcement of the Ordinance until 1953, was the responsibility of the County Engineer. As discussed in detail elsewhere, he was to issue all permits and make all necessary inspections. Any appeal from the County Engineer's decision lay in the Board of Zoning Appeals

and then in the Circuit Court. Violations of the Ordinance, willful or otherwise, were misdemeanors punishable upon conviction of fines up to \$250, plus \$10 a day for as long as the violation continued.

All provisions of the Ordinance were only minimum requirements and did not repeal any then existing statutes; however, if the Ordinance required a greater restriction than that imposed by existing statutes, then the Ordinance prevailed.

Any varying of the application of the terms of the Ordinance was the duty of the Board of Zoning Appeals as required in the enabling acts. It was their responsibility to hear and decide appeals of alleged error, special exceptions, and to authorize variances from the literal enforcement of the provisions as would not be contrary to the public interest or contrary to the spirit of the Ordinance. This is also discussed in depth elsewhere in this thesis.

It was explicitly stated that the Board of Supervisors' duties did not include the hearing and deciding of disputed questions arising from enforcement of the Ordinance. This was solely the responsibility of the Board of Zoning Appeals.

Amendments to the Ordinance, whether on the Board's own motion or on petition, were handled by the Board of Supervisors after public notice and hearing. Every proposed amendment or change had first to be referred to the Board of Zoning Appeals who held their own public hearing.

Amendments To the Ordinance: 1932-1945

Amendments to the Ordinance were relatively few through the mid-1940's. The first amendment, a relatively minor amendment to setback requirements, did not pass the Board of Supervisors until December, 1936.

Auto Graveyards: In August, 1938, the Board of Supervisors passed an ordinance licensing and regulating automobile graveyards. An automobile graveyard was defined as any lot upon which more than five inoperable motor vehicles of any kind were placed. The establishment of any such junkyard was contingent upon a use permit from the Board of Zoning Appeals. Licensing was the duty of the Department of Finance. This amendment was itself slightly modified in July, 1944.

Subdivision Standardization: By means of two ordinances in 1939, the Board of Supervisors strengthened the requirements for approval of subdivision maps or plats by the County Engineer. All maps were to be clearly drawn in a standardized manner. Classes of streets and alignment of roadways were more clearly defined.

Paragraph II under "B" Business District uses, dealing with automobile service stations, was rephrased in late 1940. The paragraph required amending as the modern type of service station came into existence.

Minor Revision: Ordinance 45, adopted in September, 1942, was intended to be a revision of the initial Ordinance. In reality, however, it was the original Ordinance verbatim with the addition of two entirely new sections concerning an airport district and minimum lot area requirement.

Dealing in every phase of aeronautics, the "E" Airport District is the longest section in the Ordinance. This district was created as a result of several airport zoning requests brought before the Board of Supervisors in the late 1930's and early 1940's. The War further accentuated the demand for this type of zoning.

A minimum lot size of 11,000 square feet and 65 feet frontage was required of any residential building served by its own well and septic tank. If one public service was provided, the minimum area was reduced to 8,000 square feet and minimum width to 55 feet.

In early 1944, cemeteries were no longer permitted as principal uses in "A" Residential Districts. Instead a special permit was required from the Board of Zoning Appeals.

A wartime amendment was passed in July, 1944, enabling the Board of Zoning Appeals to issue limited, wartime permits for a period not to exceed six months after the cessation of hostilities. These permits allowed the operation of business and industry in agricultural and residential districts.

Office Buildings: One major weakness of the initial Ordinance was the lack of provision for office buildings. As a result of a series of requests, in August, 1944, office buildings became a permitted use in Residential Districts upon securing a special permit from the Board of Zoning Appeals.

Ordinance Revision: 1945

In the late 1930's and early 1940's, sections in Tuckahoe District, notably the Westham area, developed into fine, upper class residential neighborhoods. These homes were invariably built on larger, well-landscaped lots. Fearing intrusion by other permitted residential uses and by smaller, cheaper homes on smaller lots, a Tuckahoe District civic association in February, 1945, petitioned the Board of Supervisors for a change in the Zoning Ordinance for the inclusion of more than one class of residential district, with greater restrictions in the first class than were previously provided.

The Board of Supervisors passed such a resolution, and asked the Board of Zoning Appeals to hold public hearings for the purpose of amending the County Ordinance. A special committee of the County Manager, Commonwealth's Attorney and the County Engineer was appointed to work with the Board of Zoning Appeals on the revision.

The Board of Zoning Appeals received the revised Ordinance from the Committee in March, and announced its first public hearing for April. Questions were raised as to what effect new minimum lot restrictions would have on previously recorded subdivision lots which did not meet the new standards. Builders requested minimum construction requirements in various districts be made mandatory. Developers were concerned about being restricted or handcuffed by minimum floor area requirements. At the June public hearing, all the Tuckahoe District civic associations submitted a petition of recommendations for the proposed changes.

After the Board of Zoning Appeals had held a series of public hearings, the amended Zoning Ordinance was unanimously forwarded to the Board of Supervisors with the recommendation that it be adopted. Within a month the Board of Supervisors had so acted.

Multiple Residential Districts: The major innovation of the new Ordinance was the provision of multiple residential districts. The County was divided into five residential districts: R-1, R-2, R-2A, R-3, and R-4. The first three districts had the same permitted uses. Duplexes were added as a permitted use in R-3 Districts, provided the owner lived in one unit. Office buildings, hospitals, duplexes, cemeteries, and semi-detached dwellings, which heretofore had been a permitted use in residential districts, were now restricted to R-4 Districts. Apartment houses were a conditional permitted use in this district. As can be seen from Table 8, the "A" Residential District of the original Ordinance was now the R-4 Residential District.

Lot Area: Minimum lot area and width requirements were also a part of the new Ordinance. Requirements varied according to residential classification, ranging from a minimum of 25,000 square feet area in R-1 Residential Districts to a minimum of 5,000 square feet in R-4A Residential Districts.

Changes in districts other than residential in the Ordinance were minor. The "B" Business District remained essentially the same, as did the "E" Airport District. In the "C" Industrial District specific uses requiring a permit from the Board of Zoning Appeals were listed for the first time.

Table 8. Permitted and Restricted District Uses: 1945-1953

R-1	R-2	R-2A	R-3
One family dwellings, professional offices, home occupations, churches, schools, clubs, community buildings and recreational facilities, government buildings, passenger stations, electric power facilities, farming, accessory buildings and uses,	Same as R-1	Same as R-2	Same as R-2, two family dwellings, if one unit is occupied by owner
Minimum area 25,000 sq. ft.	Minimum area 15,000 sq. ft.	Minimum area 11,000 sq. ft.	Minimum area 10,000 sq. ft.
Minimum width 100 ft.	Minimum width 80 ft.	Minimum width 65 ft.	Minimum width 65 ft.
			Area requirements increase by 50% for two family dwellings

Table 8. (Cont.)

R-4	R-4A		B
<p>Same as R-3, two family dwellings, semi-detached dwellings, cemeteries, hospitals, office buildings with a permit,</p>	<p>Same as R-4, apartment houses with a permit</p>	<p>Any R-4 use, restaurants, theaters, banks, offices, carpenter shops, signs, auto gas stations, any retail trade not prohibited, accessory buildings</p>	<p>Restricted "B" Uses: bottling works, rug cleaning, blacksmiths, coal & wood yards, storage yards, lumber yards, any manufacture not incidental to retail trade, any use prohibited in "C" district R-4 area and width requirements</p>
<p>Minimum area 5,000 sq. ft.</p>			
<p>Minimum width 40 ft.</p>			
<p>area requirements increase by 50% for two family dwellings</p>			

Table 8. (Cont.)

C	D-Agri.	E-Airport
<p>Any use not prohibited</p> <p>Use Permit Required for the Following:</p> <p>dump, fat rendering, livestock feed yard, manufacture of fire works, etc.,</p>	<p>canning of animal products, refining of petroleum, smelting metals, slaughter and stock yards, any other objectional uses</p> <p>R-4 area and width requirements</p>	<p>Any R-4 use, all farming, forestry, sawmill operations, outdoor advertising signs</p> <p>Minimum area 1 acre</p> <p>Minimum width 150 ft.</p>
		<p>Any use in conjunction with an airport</p>

New Building Regulations: Building regulations were changed only in respect for providing separate regulations for the limited use residential districts. Two new sections were added, however, increasing the number of sections to 30. Included was a minimum floor area building requirement in all residential districts up through R-2A Districts. Provision was made for mandatory parking requirements for every structure, whether business or residential, in the County.

An addition to the Ordinance which received little attention at the time was the prohibition of a house trailer in any residential district without the approval of the Board of Zoning Appeals. This point has generated much friction, as the Board of Zoning Appeals has been very reluctant to issue use permits for this purpose.

Amendments To the Ordinance: 1945-1953

Because the Ordinance's minimum lot restrictions made many pre-recorded subdivision plats unusable, within three months after its adoption, the Board of Supervisors authorized the Board of Zoning Appeals to modify these requirements under certain conditions. An amendment which proposed to exclude all lots recorded prior to July, 1945, from the minimum area requirements section of the revised Ordinance was defeated by both the Board of Zoning Appeals and the Board of Supervisors.

Subdivision Control: In an effort to better control the Post-War housing boom that was engulfing parts of Tuckahoe and Brookland Magisterial Districts, the Board of Supervisors in March, 1948, passed a new, more stringent ordinance to provide for the orderly regulation of the subdivision of property and its recording. This ordinance took

advantage of the power granted to the counties of the Commonwealth by the Land Subdivision Act of 1946, passed by the General Assembly. Rigid conditions were laid for lots, roads, and final plats.

Notification of Adjacent Property Owners: At that time there was no requirement that adjoining property owners be notified of a desired zoning change other than through newspaper advertisements. As a result, property owners frequently had adjoining land rezoned without their knowledge, much to their objection and consternation. To alleviate this undesirable situation, signatures of at least two adjoining property owners were required before the case could be heard. This was further strengthened until today all adjacent property owners must be notified. Intention of such zoning change request is posted on the property by the Planning Staff.

In April, 1950, another residential district was created, the R-4A District. With the creation of this new classification, apartment houses were no longer a conditional use permitted in R-4 Districts; instead apartments were allowed only in the newly created R-4A District.

Ordinance Revision: 1953

The next amendment was another revision in August, 1953. This revision divided the all inclusive "B" Business District and "C" Industrial District into four classifications each. In addition, on request, an exclusive R-0 Residential District was created solely for the estates and large homes overlooking the James River in Tuckahoe District. Minimum width in this district was 200 feet with a required area of 40,000 square feet (see Table 9).

Table 9. Permitted District Uses: 1953-1960

R-0	R-1	R-2	R-2A
One family dwellings, professional offices, home occupations, churches, schools, community buildings, public buildings, passenger stations, power stations, telephone exchanges, small signs, farming, accessory buildings, free parking facilities, temporary real estate signs,	Any R-0 use, clubs, farming,	Any R-1 use	Any R-1 use
Minimum area 40,000 sq. ft.	Minimum area 25,000 sq. ft.	Minimum area 15,000 sq. ft.	Minimum area 11,000 sq. ft.
Minimum width 200 ft.	Minimum width 100 ft.	Minimum width 80 ft.	Minimum width 65 ft.

Table 9. (Cont.)

R-3	R-4	R-4A	B-1
Any R-1 use, two family dwellings, if one unit is occupied by the owner	Any R-3 use, two family dwellings, semi-detached buildings, cemeteries, recreation grounds, hospitals, office buildings by permit	Any R-4 use, apartment house by permit	Any R-4A use, neighborhood shopping centers, retail outlets, auto service stations with permit, parking lots, banks, barber and beauty shops, shoe repair, laundrettes, tourist homes, theaters, restaurants, any business approved as appropriate by B. Z. A.
Minimum area 10,000 sq. ft.	Minimum area 5,000 sq. ft.	Minimum area 5,000 sq. ft. per family unit	Minimum area in all B and C 5,000 sq. ft.
Minimum width 65 ft.	Minimum width 40 ft. increased by 50% for two family dwellings		Minimum width 40 ft.

Table 9. (Cont.)

B-2	B-3	B-4	C-1
<p>Any B-1 use, hotels, motels, public garages, dyeing and cleaning, bakeries, any other use permitted by B. Z. A.</p>	<p>Any B-2 use, carpenter, plumbing shops, funeral homes, open air theaters, any other use permitted by B. Z. A.</p>	<p>Any B-3 use, trailer camps, bowling alleys, dance halls, drive in eating facilities, veterinary, public garages not permitted in other districts, any other use permitted by B. Z. A.</p>	<p>Any B-4 use, milk stations, ice plants, textile mills, any other use permitted by B. Z. A.</p>

Table 9. (Cont.)

C-2	C-3	C-4	D-Agri.	E-Airport
Any C-1 use, steel fabrications plant, millwork plant, any other use permitted by B. Z. A.	Any C-2 use, distilleries, canneries, machinery assembly plants, any other use permitted by B. Z. A.	Carnivals, smelting, refining, stockyards, acids, cements, fertilizer, explosives, gases, glue, any other use permitted by B. Z. A.	Any R-4 use, farming, forestry, outdoor advertising, signs, veterinary hospitals, hospitals Minimum area 1 acre Minimum width 150 ft.	All airport activities

Multi District Business and Industry: However, the most significant changes were in the business and industrial districts. For the first time, the Ordinance was written in an entirely permissive manner and also for the first time business and industrial uses were listed in a concise and logical manner. Uses which previously could not be conducted anywhere within the County without a use permit were now listed as principal uses in higher classified business and industrial districts. By means of a 1954 amendment, all undeveloped land previously zoned as "B" Business or "C" Industrial was automatically reclassified as B-1 or C-1. Again the "D" Agricultural and "E" Airport Districts remained untouched.

Most major building regulations received a substantial "beefing up". For instance, the setback line in all residential districts up through R-2A was increased from 45 feet to 70 feet. However, for the first time since the Ordinance was adopted, no new building regulations or administrative sections were added. The total number of headings, nonetheless, increased to 39 because of the increased number of use districts.

Amendments To the Ordinance: 1953-1960

During the mid-1950's several minor amendments were made to the Ordinance. An amendment to make veterinary hospitals, in conjunction with boarding kennels, a permitted use with a required use permit in agricultural districts was taken to court. Previously no use permit was required. Ordinance 108 had the distinction of being the first and only zoning amendment to be declared invalid. As a result, in 1957, the entire paragraph was deleted.

During this period, subdivision and road regulations were again revised and strengthened. This revision came at an opportune time, as it just preceded the housing and subdivision boom of the mid-1950's.

Another new business district was created for the exclusive use of motels and related service facilities, excluding automobile service stations. This new B-0 Business District superceded part of the B-2 Business District where motels had previously been permitted.

In July, 1956, another industrial district was created, the C-5 Penal and Correctional Institutions District. This district in the 1960 revision was changed from under an industrial classification to an entirely independent status. Currently there is no land zoned for such use in the County.

The hearing of zoning reclassification requests was shifted from the Board of Zoning Appeals to the newly created Zoning Commission in August, 1956. The Zoning Commission, which succeeded the Planning Commission, approved subdivision plats as its predecessor did and in addition conducted public hearings on zoning change requests.

Gravel Pits: Eastern Henrico County, especially the Varina Magisterial District, has vast deposits of gravel, stone, sand, and other minerals. As mining and excavating activities increased in the 1950's, due to increased construction activity, the County found its Zoning Ordinance inadequate to regulate these activities. Citizens became irate because of the noise and dust involved in these operations. When excavation activities had been completed, the excavators would pick up their equipment and move to the next site.

Behind they left vast, water-filled pits and quarries; mounds of dirt, up to six stories high, were piled and left to erode. No attempts at reclamation were made. Varina District was becoming marred and the County was almost powerless to combat this situation.

As a result, a series of amendments was passed beginning in December, 1956, which attempted to control mining operations and provide for the orderly rehabilitation of the mined land. Use permits were required from the Board of Zoning Appeals; bonds were required to be posted; operations could only be conducted during specified hours and under specified conditions. Today the Board of Zoning Appeals even specifies the analysis of fertilizer and variety of grass seed to be used in reclamation operations.

Minimum Area: In the late 1950's the County, in anticipation of revising the Ordinance upon completion of its first Land Use Study since 1932, passed a short, but important amendment. Remembering complications encountered when more restrictive regulations were enacted on building lot requirements in 1945, the Board of Supervisors made any lot of record, before the enactment of an ordinance or amendment, buildable no matter what the area requirements were of the new ordinance, provided the lot was at least 65 feet wide and had at least 11,000 square feet. This amendment, passed in June, 1957, was similar to one proposed and rejected by both Boards after enactment of the 1945 revision.

The late 1950's saw the addition of no less than 35 amendments to the Zoning Ordinance. Most changes were of a minor nature, shifting uses from one classification to another. For example, cemeteries were deleted as a permitted use in R-4 Residential Districts and were made a special exception to any district.

R-5 Residential District: In August, 1958, the R-5 Residential District was created. This district, having a minimum area of 7500 square feet and minimum width of 60 feet, permitted any R-4 District use. At the same time area requirements were raised for R-4 Districts and duplexes were no longer permitted uses in R-3 and R-4 Districts.

In March, 1959, minimum building dimension requirements were extended to all residential districts. During the same year, additional amendments were enacted reorganizing "D" Agricultural District uses and controlling drive-in eating establishments. Regulations governing drive-in restaurants were necessary because of excessive noise, odor, light, and trash emitted from these gathering places.

Board of Zoning Appeals: The role of the Board of Zoning Appeals had not been redefined since the adoption of the 1933 Ordinance, despite the fact that its duties and load had increased many fold. Consequently, in March, 1959, the composition, organization, and powers of the Board of Zoning Appeals were further defined and clarified. The Board of Zoning Appeals was given further discretionary authority to permit any type of activity not specifically listed as a permitted use in all business and industrial districts.

As the various district uses were reorganized in the late 1950's, new amendments were written in a new manner of permitted uses. First were listed principal uses permitted. Next, under a separate heading, were written conditional uses permitted by special exception of the Board of Zoning Appeals. Following that, again under separate heading, were accessory uses permitted and the required conditions. This explicit, concise manner of organization has continued through 1966.

Ordinance Revision: 1960

With the adoption of the Land Use Plan, in February, 1953, attention was devoted to a revision of the Zoning Ordinance by the Zoning Commission using the Land Use Plan as a guide. By November, 1959, the third and final draft of the proposed revised Ordinance was approved by the Zoning Commission and ready for public hearing. At two public hearings on the revision, 34 interested parties were heard. These parties consisted mainly of the prominent builders and developers who were most often affected by the conditions of the Ordinance. Laymen were conspicuously absent.

The revised Ordinance was approved unanimously by the Board of Supervisors in December, 1959, and became effective January 1, 1960.

The most notable difference in the revised Ordinance was its more organized and orderly, law-like manner of presentation. Older regulation sections were combined and reworked so that the Ordinance had only 21 articles, down from 39 in the 1953 revision. Only one new zoning district was created, the C-1 Conservation District. Gone were the five business districts and five industrial districts. This number of business and industrial use districts were found to be unnecessary, as it made the Ordinance unnecessarily restrictive and complex. In the revision both business and industrial uses were divided into three broader classifications. Their role can be seen from Table 10. Residential districts were redrafted so as to permit one family dwellings only, in all residential districts through R-4. Gone was the old R-4A Multi-family

District. In its place was the R-5 General Residence District, the only district to allow multi-family dwellings and office buildings.

The "E" Airport District was dropped as a separate use district. Instead, airport regulations were included with other special use regulations.

Business: Business districts were classified as Neighborhood, Community or General Districts. Neighborhood Districts were designed primarily to serve residents in the immediate neighborhood. As a result, only local retail sales and service establishments, whether individually located or in a neighborhood shopping center were permitted.

Community Business Districts were designed to serve the general public on a larger scale; larger shopping centers and indoor recreational activities were permitted uses. The General Business District permitted virtually all kinds of retail sales and business activity.

Industry: In a similar manner industrial districts were divided into three types: Light Industrial, General Industrial and Heavy Industrial. General and Heavy Industrial Districts were required to be specific distances from residential districts. The C-5 Penal and Institutional Industrial District was redesignated I-1 Institutional District, but remained otherwise unchanged except for the addition of mental hospitals as a principal use.

Flood Plain Zoning: The C-1 Conservation District was created from sad experience. During Post-War building booms natural drainage fields and flood plains were allowed to be developed with permanent dwellings. Whether

Table 10. Permitted District Uses: 1960-1965

R-0	R-1	R-2	R-2A	R-3	R-4
<u>Principal Uses</u>	Same as R-0	Same as R-0	Same as R-0	Same as R-0	Same as R-0
One family dwellings, churches, schools, farming, forests, conservation, nursery schools, county pumping stations, display homes					
<u>Conditional Uses By Special Exception</u>					
Transportation lines, recreational areas, public utility structures					
<u>Accessory Uses</u>					
Private garages, parking, living quarters for workers on premises, guest homes, non paying home occupations, two roomers, temporary roadside stands,					
Minimum area 25,000 sq. ft.	Minimum area 15,000 sq. ft.	Minimum area 11,000 sq. ft.	Minimum area 10,000 sq. ft.	Minimum area 8,000 sq. ft.	Minimum area 6,000 sq. ft.
Minimum width 100 ft.	Minimum width 80 ft.	Minimum width 65 ft.	Minimum width 65 ft.	Minimum width 65 ft.	Minimum width 50 ft.

Table 10. (Cont.)

R-5		A-1	
<p><u>Principal Uses</u></p> <p>Any use permitted in R-4, two family dwellings, multi family dwellings, rooming houses, tourist homes and motels on U. S. highways</p>	<p><u>Accessory Uses</u></p> <p>As permitted in R-4</p> <p>Minimum area 6,000 sq. ft.</p> <p>Minimum width 50 ft.</p>	<p><u>Principal Uses</u></p> <p>Any use permitted in R-0, forestry, summer houses, farming</p>	<p><u>Accessory Uses</u></p> <p>As permitted in R-0, marine equipment,</p> <p>Minimum area 30,000 sq. ft.</p> <p>Minimum width 150 ft.</p>
<p><u>Conditional Uses By Special Exception</u></p> <p>Any conditional use permitted in R-4, group housing project, clubs, hospitals office buildings</p>		<p><u>Conditional Uses By Special Exception</u></p> <p>Any conditional use in R-0, gun clubs, hog farms, sand & gravel pits, hospitals, airports, fairgrounds, cemeteries, recreational facilities</p>	

Table 10. (Cont.)

<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	
<u>Principal Uses</u>	<u>Principal Uses</u>	<u>Principal Uses</u>	<u>Conditional Uses</u>
Any use permitted in R-5, any local retail sales or service firm, antique shops	Any principal use permitted in B-1, any retail sales or service establishment for the general public	Any principal use permitted in B-2, motel and tourist homes, auto sales & garage, machinery sales & garage, indoor & outdoor recreation, outdoor eating, bakery, laundry, mortuary, veterinary, outdoor advertising signs, building material yards, coal & wood yards, sheet metal shop	<u>By Special Exception</u>
<u>Conditional Uses</u>	<u>Conditional Uses</u>		Any conditional use permitted in B-2, trailer parks, carnivals, fairs
<u>By Special Exception</u>	<u>By Special Exception</u>		<u>Accessory Uses</u>
Any conditional use permitted in R-5, neighborhood shopping centers, out-of-doors sales, auto service station, retail cleaners	Any conditional use in B-1, community shopping centers, dyeing & cleaning, indoor commercial recreational establishments		Accessory use as permitted in B-2, accessory uses not otherwise prohibited
<u>Accessory Uses</u>	<u>Accessory Uses</u>		
As permitted in R-5, any accessory use incidental to any permitted use	As permitted in B-1, accessory uses not otherwise prohibited		

Table 10. (Cont.)

M-1 ¹	M-2	M-3	<u>Conditional Uses By Special Exception</u>
<u>Principal Uses</u>	<u>Principal Uses</u>	<u>Principal Uses</u>	Any conditional use permitted in M-2, garbage dumping, atomic labs, junk yards
Any principal use in B-3 except schools, hospitals, any manufacturing of light goods, laboratories, warehouses, rug cleaning, blacksmiths, bottling, tire manufacturing	Any principal use in M-1, any use if not listed as a conditional use or first listed in M-3	Any principal use in M-2, slaughter houses, acid manufacturing, bone distillation, cement, lime, chemical works, explosives, fat or oil rendering, fertilizer & gas manufacturing, glue manufacturing, petroleum refining, race tracks, smelting, carnivals, bulk storage of inflammables	<u>Accessory Uses</u>
<u>Conditional Uses By Special Exception</u>	<u>Conditional Uses By Special Exception</u>		Accessory uses permitted in M-2, accessory use not prohibited
Sand & gravel mining, airports	Any M-1 conditional use		
<u>Accessory Uses</u>	<u>Accessory Uses</u>		
Accessory uses not otherwise prohibited	Any M-1 accessory use		

59

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"M" signifies industrial districts, which prior to 1960, were signified by "C".

Table 10. (Cont.)

C-1	I-1
<p><u>Principal Uses</u></p> <p>Farming, forestry, wildlife preserve, private recreational clubs, summer houses, water works</p> <p><u>Conditional Uses</u> <u>By Special Exception</u></p> <p>Race tracks, airports, sand & gravel pits, outdoor marine areas, "Par 3" golf courses</p> <p><u>Accessory Uses</u></p> <p>Accessory uses incidental to principal or conditional use</p>	<p><u>Principal Uses</u></p> <p>Penal or correctional institutions, mental hospitals, government buildings and establishments</p> <p><u>Accessory Uses</u></p> <p>Uses incidental to permitted principal uses</p>

the drainage fields were developed or not made little difference during heavy rains. Water runoff on its way to the Chickahominy Basin ravaged these developed areas, routing their residents on numerous occasions. The County repurchased the affected areas at considerable cost. These areas, swamps, marshland, and other natural drainage fields were placed in the newly created C-1 Conservation District. In this district, all permanent buildings were prohibited. Principal uses included farming, recreation, wildlife preserves, and similar activities.

Building regulations were again revised. Most requirements were strengthened, although residential lot size requirements were relaxed to 1945 levels. Building requirements were written in a new, tabular form. Stringent building regulations were extended to industrial and business districts. Parking regulations were again stiffened; the layout and construction of parking lots were now controlled.

Special shopping center and trailer park regulations were included for the first time. By this time the major structural framework of the Ordinance had been completed; it is evident that most of the innovations in 1960, tried to regulate complementary uses. The sophistication of the 1960 Ordinance is quite evident.

Amendments To the Ordinance: 1960-1965

Though amendments to the Ordinance slowed after the 1960 revision, nonetheless, they did continue at a reduced rate. In 1962, commercial golf courses became a conditional use in both A-1 Agricultural and C-1 Conservation Districts.

Signs: One of the more significant amendments was the addition of an article dealing exclusively with signs. Previously, sign regulations were described in each article. There was no one location in the otherwise orderly Ordinance where sign regulations could be found. Instead these regulations were scattered throughout the Ordinance.

Other amendments were of a minor nature. Minimum area requirements were reduced slightly for apartment houses; fortune tellers were permitted as a principal use in B-3 General Business Districts; parking and setback regulations were again revised upward for industrial districts. These amendments rounded the Ordinance.

Planned Neighborhood: In early 1966, two significant additions were made. As a result of a proposal to develop Cheswick, a self contained community on a 130 acre farm in Tuckahoe District, an amendment providing for a Planned Neighborhood District passed. This amendment unfortunately became entangled in the pros and cons of this particular case. The opponents of the Cheswick project tried to block the creation of the Planned Neighborhood District rather than fight their case on its own merits. Despite opposition to having such a zoning district in the Ordinance, the Board of Supervisors, with Planning Commission recommendation, approved the amendment in January, 1966.

R-6 Residence District: Two weeks later a new, less restrictive R-6 General Residence District was created. The major innovation in this district was the permitted use of buildings up to eight stories high without a use permit. Office buildings, clubs, hospitals, and banks were

principal uses. Conditional uses were retail outlets within office buildings. Prior to the creation of this district, any building over three stories in height required a conditional use permit from the Board of Zoning Appeals.

In Retrospect

In retrospect, Henrico County has treated its Zoning Ordinance well and as a result the Ordinance has reciprocated. Today's Ordinance was not created overnight. In it lay thirty years of success and failure. There are some strokes of farsightedness in the Ordinance. The very early requiring of off-street parking facilities is an example. The Ordinance was also a witness to some oversights. That no conservation district was created until 1960, was unfortunate. During the Post-War housing boom, flood plains were allowed to be developed. For this mistake the County paid dearly.

The actors that played the starring roles in the evolution of the Ordinance have come and gone. In its simpler days, citizens and civic groups initiated changes in the Ordinance. Indeed, most early major revisions were a result of a civic demand. Today, however, the Ordinance in its advanced state, is too complex for the laymen. As a result most requests for change come from within the Staff. As the population of the County grew, fortunately so did the zoning tools necessary to control its growth. Consequently the pressures brought to bear by an enlarged populace were met by an Ordinance capable of restraining unregulated development.

TRUSTEES OF THE ORDINANCE

Having a zoning ordinance does little good if it is not enforced. The original Ordinance placed the responsibility of enforcement on the County Engineer and his staff. Any person who proposed to construct or alter any building or make use of a lot in the County had to make application to the County Engineer for a building permit. Each application required certain information to be given to the Engineer. He was to make an "intelligent" decision as to the validity of the request based on the information presented. If the proposed structure, addition, or use was in conflict with the Ordinance, the County Engineer was to refuse the permit. Appeal from a decision of the County Engineer lay in the Board of Zoning Appeals.

Board of Zoning Appeals

The Board of Zoning Appeals, as required by Virginia Statute, consists of five members appointed by the Judge of the Circuit Court of Henrico County in a staggered manner for terms of five years each. It is the duty of the Board of Zoning Appeals, in appropriate cases and under appropriate conditions and safeguards, to vary the application of the provisions of the Ordinance as provided in the enabling legislation. Such duties include the issuing of variances, use permits, and making all requested interpretations of the Ordinance.

Such relief was to be given only if the request would not be contrary to the public interest and under conditions where a literal enforcement of the terms of the Ordinance would result in unnecessary hardship, providing the spirit of the Ordinance has not been affected.

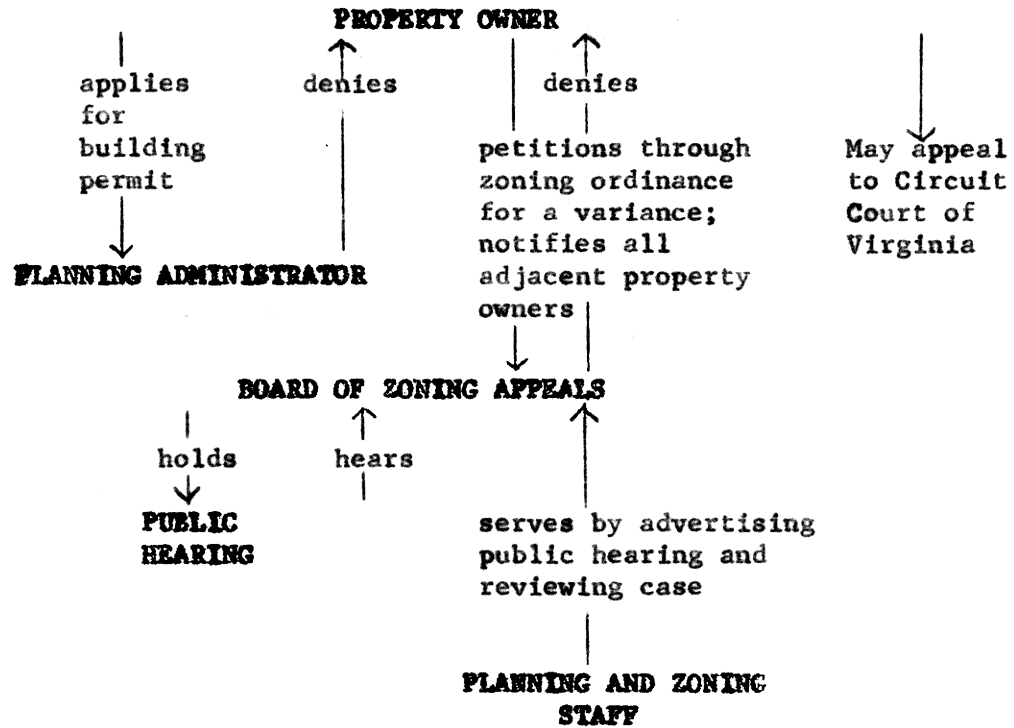
In addition to the issuing of variances from the Ordinance, the Board of Zoning Appeals was given the duty of holding public hearings on zoning reclassification requests referred to them by the Board of Supervisors.

Meeting once a month, they would first hear zoning requests and then petitions of relief from the Ordinance. The Board of Zoning Appeal's recommendations to the Board of Supervisors on rezoning requests were upheld to a remarkable degree. Undoubtedly part of this can be traced to the tenure of both the Board of Zoning Appeals and the Board of Supervisors. Until the mid-1950's, the average tenure on the Board of Zoning Appeals was almost two terms. This led to continuity of policies and consistency of decisions. From the late 1930's to the early 1950's, the Board of Zoning Appeals had one chairman.

Appeals Procedure Before the Board of Zoning Appeals

If the petitioner has been refused a building permit by the Planning Administrator and still wishes to carry out his original plans, he must seek relief from the Ordinance. Those plans that are in conflict with the Ordinance are a small percentage of the building permits requested. If the petitioner wishes the Board of Zoning Appeals to hear his case, he must pay the Planning Administrator a nominal fee to help defray the

Figure 2. County of Henrico
 Appeal Procedure For Property Owner



advertising costs. Upon receipt of this fee, the Planning Office advertises the request in a local newspaper and reviews the case. The Board of Zoning Appeals hears a maximum of 25 cases at its monthly meeting held the fourth Thursday of every month. The cases are heard in the order in which they were brought to the Planning Administrator. The petitioner first presents his case, after which the opposition is heard; the petitioner is allowed a rebuttal. Also present at the hearing is the Planning Administrator and a planner. After all cases have been heard, the Board makes its decisions. In making decisions, the Board relies on the field work done by the Planning Office. Appeal from a decision of the Board of Zoning Appeals lay in the Circuit Court.

Chart 2 illustrates this procedure.

Planning Commission

The Planning Commission was the successor to the Zoning Commission which drew up the initial ordinance. The Planning Commission was created after enactment of the Ordinance to assist the Board of Supervisors in the planning of the County. It was also given the responsibility of approving subdivision plans. It has always been strictly an advisory group.

The Planning Commission has always been appointed by the Board of Supervisors for a term running concurrent with the Board of Supervisors. However, the Commission's duties were so nebulous, that on two occasions, in 1943 and 1951, the Board of Supervisors did not see fit to even

appoint a Planning Commission.¹

In 1956, the Board of Supervisors dissolved the Planning Commission and in its place appointed a Zoning Commission for the purpose of conducting the first land use study since 1930. Following that, the Commission was to revise the Ordinance in light of the land use study. In addition to the above two responsibilities, the Zoning Commission was to approve subdivision plats and for the first time hear rezoning requests. The hearing of rezoning requests by an appointed commission was made possible as a result of a revision of the enabling acts. The assuming of these new responsibilities by the Zoning Commission greatly relieved the pressure that had been accumulating on the Board of Zoning Appeals. The Board had been meeting as much as twice a month to hear variance and zoning requests.

The Zoning Commission, whose members were appropriately paid by the Board of Supervisors, met regularly twice a month. Zoning reclassification requests were heard at the first meeting. The second meeting was for the approval of subdivision plats.

After a series of public hearings, the Zoning Commission adopted the new Land Use Plan in February, 1958. The study resulted in a new master plan designed to serve the County's needs until 1980.

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A Planning Commission was appointed in all years except 1943 and 1951. The Zoning Commission was in existence from 1930-1933 and from 1956-1960.

The next task of the Zoning Commission was the drafting of a revised Ordinance. After over a year's work, a revised County Zoning Ordinance was adopted by the Board of Supervisors in December, 1959.

Having completed its tasks, the Zoning Commission was dissolved by the Board of Supervisors. In its place the Board of Supervisors recreated the Planning Commission. The Planning Commission, like the Zoning Commission, consisted of five members. Each Supervisor appointed a Commission member, with the Planning Administrator making the fifth member. The Planning Commission had the same duties as the Zoning Commission and followed the same procedures.

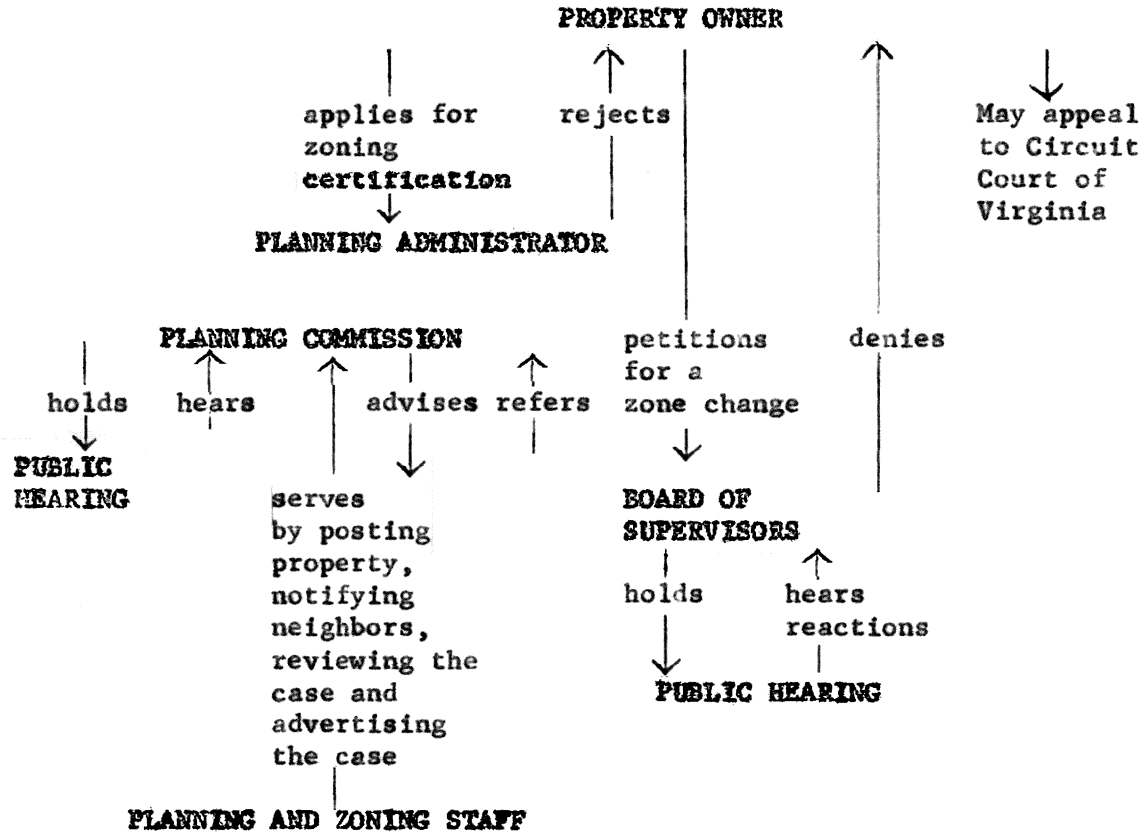
Planning Commission Procedure

Rezoning requests are filed by the applicant on a standard form obtained from the Planning Office. This request must be accompanied by a fee prescribed by the Board of Supervisors, which is not refundable regardless of what action follows. The petition for amending the Ordinance is brought before the Board of Supervisors, who immediately refer the request to the Planning Commission for a public hearing.

The Planning Commission hears zoning reclassification requests on the second Tuesday night of each month; the second meeting, for the approval of subdivision plats, is held the morning of the fourth Tuesday of every month. When the request is in order, the Planning Office proceeds to advertise the proposed change for two consecutive weeks in a local newspaper. The Commission then notifies by letter the adjoining

Figure 3. County of Henrico

Rezoning Procedure For Property Owner



property owners of the public hearing; in addition, the property in question is posted by the Planning Staff. While performing these duties, the Planning Staff conducts a thorough investigation of the request.

At the public hearing, cases are heard in the order in which they appear on the agenda. The Commission may not hold a case, referred to it by the Board of Supervisors, for a period of over 90 days. The Planning Commission, after hearing both sides of the issue, decides the case with the aid of the Planning Staff. Any decision made by the Commission is strictly an advisory decision and is binding in no way. Once the Board of Supervisors has made a decision, any case involving substantially the same circumstances may not be heard by the Commission for one year.

Accompanying Figure 3 explains this procedure diagrammatically.

Board of Supervisors

The County is divided into four magisterial districts which are unequal in size and in population. Each district elects one representative or supervisor. Thus, the rural Varina District which is largest in area, but smallest in population with less than 9,000 residents, has equal representation with the more highly urbanized Tuckahoe and Brookland Districts, whose residents number over 40,000 each. In early 1966, the courts ruled that the Board of Supervisors had to be elected at large, and not by magisterial districts. To further complicate matters, a group of citizens from the more populous districts are seeking a court-ordered redistricting.

The Board of Supervisors is elected the year before Presidential elections for a term of four years. This four-year term, together with long tenure, has given the Board of Supervisors and the County government on the whole, admirable stability.

The Board of Supervisors meets twice a month during the afternoon of the second and fourth Wednesdays. Zoning cases are heard at the Board's first meeting. With recommendations of the Planning Commission having been received, the Board of Supervisors conducts a full public hearing on the request. After both sides of the case have been heard, the Board of Supervisors makes its decision. In other than highly controversial cases, the Board usually votes as the Board member in whose district the request is situated moves. Appeal from a decision of the Board of Supervisors lay in the Circuit Court.

The Planning Staff

The Planning Office, with the Planning Administrator as its head, was created in 1956, and is under the County Manager. Today the overseer of the Zoning Ordinance is the Planning Administrator. He and his staff are the only professionals involved in the creation, use, amendment, and enforcement of a highly complex Ordinance. The Planning Administrator assumed the responsibility of enforcement of the Ordinance from the County Building Inspector, who in 1953, assumed that responsibility from the County Engineer. Enforcement of the Ordinance is a never ending job.

The Planning Office acts as a bridge between the various commissions and boards which divide the administrative responsibility of the Ordinance. As the only full-time people involved, the Planning Administrator and his staff are the motivating force in the Ordinance. If anything has to be done, they must do it.

The Planning Staff in Henrico County currently consists of 10 employees. This is under the authorized level, but vacancies are difficult to fill. One vacancy has gone unfilled for over a year. Besides the Planning Administrator, the staff consists of a chief planner, a county planner, two planning inspectors, a draftsman, a subdivision and drainage engineer, and three clerical workers.

The Planning Staff is the Zoning Ordinance as far as the public is concerned. It is the Staff to whom the public turns when relief from the Ordinance is sought. It is the Staff who goes into the field to inspect and enforce the Ordinance. The importance of an efficient and capable Staff cannot be overstated.

ANALYSIS OF VARIANCE REQUESTS

Variance Requests: 1933-1945

Petitions of relief from conditions of the Ordinance have always been presented before the Board of Zoning Appeals. During the first 12-year period of the Ordinance, the Board of Zoning Appeals heard 192 appeals of relief from the Ordinance.

Setback: Of 73 cases in the sample, 61 of them sought relief from side-yard and setback restrictions. The large number of variances requested from setback requirements is due mostly to the building of new homes in older neighborhoods with no previous setback regulations. These older homes were built with setback lines ranging from nothing to over 100 feet. The Ordinance required new homes to follow established setback lines. Applicants seeking relief from this condition resulted in the large number of setback requests. Of 28 requests for variations in setback requirements, 23 or 82% were approved. Of these, 24 were presented by the applicant and four by a representative of the applicant. Only one case was opposed.

Sideyard: Almost without exception the most frequently requested variance in any ordinance is for relief from sideyard restrictions. There were 33 such requests during this first period in Henrico County. Relief was usually required because most lots in question were recorded prior to establishment of the Zoning Ordinance, and consequently were recorded too small for effective use. In order to build any reasonable size structure on these lots, a sideyard variance was essential. In over 3/4 of these

requests, the Board of Zoning Appeals¹ gave relief to the applicant. Again, little or no outside interest was shown at the required public hearing. Of 33 cases heard by the Board of Zoning Appeals, only two generated any opposition to the proposed variance. Both of these cases aroused mixed concern. The amount of sideyard variance requested appeared to be of little concern. The Board on more than one occasion granted a sideyard variance to permit a sideyard of only one foot, while on other occasions denied not so great sideyard variances. Most relief from sideyard requirements sought the waving of the mandatory five foot sideyard. On 28 occasions the request was presented by the applicant, while the remaining cases were argued by a representative of the applicant.

The remaining 12 variance requests were of a scattered nature. Non-conforming uses, home occupation, two-family dwelling requirements, signs, and interpretation of the Ordinance were heard before the Board of Zoning Appeals. After the establishing of a minimum building area requirement by amendment to the Ordinance in 1942, two requests were brought before the Board. One request was approved, the other denied.

In all, during this first period 75% of variance requests heard were granted. Over 93% of the requests brought no public response. Of the cases where no public interest was shown 48 were approved, while 13 were denied and two were dropped. Interestingly, of the four cases where some opposition developed, three were denied.

¹The Board of Zoning Appeals makes the final decision on variance requests. In the interest of brevity this body will at times be referred to as the Board.

Table 11. Analysis of Variance Requests: 1933-1945

Type of request	% of total requests	% approved	% presented by appli.	% no int. shown	% pres. by appli.app.	% pres. by repr.app.	% app. with no int.	% app. with opposition
Sideyard	45.2	75.8	84.8	93.9				
Setback	38.3	82.1	85.7	96.4				
Other	16.5	58.3	75.0	83.3				
Total	100.0	75.3	83.6	93.2	75.4	75.0	78.3	25.0
Magisterial District		% of 1940 population		% of valiance requests				
Brookland		32.5		28.6				
Fairfield		27.8		34.9				
Tuckahoe		26.5		30.2				
Varina		13.2		6.3				

Whether a request was presented by the applicant or his representative, the Board approved requests for each in 75% of the cases.

About the same number of variance requests came from each of the more populous magisterial districts. Fairfield District, with a population of 11,649 in 1940, generated 22 requests. Brookland District, with the largest population in the County (13,657), had 18 request, while Tuckahoe District had 19 requests from a population of 11, 123. Varina District, with just over 5,500 inhabitants, had four requests. See Table 11.

Variance Requests: 1945-1960

From the enactment of the revised Ordinance in 1945, until 1960, the County of Henrico went through its stage of most rapid growth. This period saw population grow from 34,000 in 1945, to over 117,000 in 1960. It was during this period that the Board of Zoning Appeals relinquished the conduction of zoning reclassification hearings. During this 15-year period, the Board heard a total of 1453 requests for relief.

The type of variance requests brought before the Board during this period were similar to those heard previously. However, requests for relief from area requirements slightly exceeded sideyard requests as the most frequently sought relief.

Setback: With the development of row housing, setback became less of an issue. From a sample of 135, only 18 requests were for variations in setback lines. Of these, 15 or 83% were approved. No one opposed a setback request. Fourteen requests were handled by the applicant, while four applicants chose representatives to present their case.

Sideyard: Sideyard variances were asked in 33% of the cases heard. This was down from 45% in the first period. All but four of 44 sideyard requests were granted. Again public interest in sideyard variances was void, as not one request brought even a token opposition.

Only five of 44 applicants saw fit to have a representative present their case. Those sideyard variances that were denied were not of an excessive nature. For instance, one sideyard variance of four feet from a 30 foot sideyard was denied, while at the same time a variance of 52 feet from a 55 foot sideyard was granted. The tape measure did not tell the entire story. Consideration such as type of neighborhood and proximity of adjacent structures were important factors.

Width: With the introduction of minimum width requirements, this type of variance request became common. This variance was necessary on all under-width lots before they could be used. During this period there were 11 applications for relief. Nine requests were approved. Eight applicants presented their own case, while three others had representatives. Again no one opposed a request.

Area: The largest number of applications, 1/3 of them, sought relief from minimum area requirements of the Ordinance. These requirements were introduced in the 1942 revision. First applying only to the more restricted residential areas, minimum area requirements were soon applied to all use districts. As a result of prerecorded subdivisions, many lots became use-less without a variance, as they were under minimum area requirements.

Seeing undue hardship arising for many, the Board of Supervisors immediately gave the Board of Zoning Appeals discretionary power to waive the minimum area requirements under conditions that would not adversely affect the public health or safety.

Of 45 cases appearing before the Board of Zoning Appeals, 34 (76%) variances were granted. Perhaps reflecting the importance of the request, nine applicants had a professional person represent them. This 25% level of representation was greater than the average for the period. Interest shown also increased a negligible amount, as two applications had objections.

Other: During this period there were 16 additional miscellaneous variance requests. These included backyard, parking, nonconforming use, and accessory use requests. Of these requests, only 10 were approved; however, some requests required interpretation only and, therefore, did not require a decision. Of the cases heard, 12 were presented by the applicant. In no case was any public response noted.

For the period as a whole, 80% of 135 variance requests were granted. This was up slightly from the 75% granted during the first period. The applicant represented himself in 82% of the cases. While representing himself he was granted his request 82% of the time. This is slightly above average for the period. Professional people presented 25 of the cases and had a 72% level of success. It must be said in all fairness that the more difficult cases were usually represented by professional people. Setback lines, for instance, which are defensible mainly for aesthetic reasons, had a greater percentage of lawyers representing the case.

Table 12. Analysis of Variance Requests: 1945-1960

Type of request	% of total requests	% approved	% presented by appli.	% no int. shown	% pres. by appli.app.	% pres. by repr.app.	% app.with no int.	% app. with opposition
Sideyard	32.6	90.1	88.6	100.0				
Setback	13.3	83.3	77.8	100.0				
Width	8.1	81.8	72.7	100.0				
Area	33.3	75.6	80.0	95.6				
Other	12.7	61.5	83.3	100.0				
Total	100.0	80.6	82.0	98.5	81.8	72.0	81.1	50.0
Magisterial District		% of 1950 population		% of valiance requests				
Brookland		36.0		42.0				
Fairfield		32.8		19.7				
Tuckahoe		19.3		35.0				
Varina		11.9		3.3				

Again no interest was shown in the overwhelming majority (98%) of cases. This is attributed to public indifference. In 81% of the cases where no interest was shown, the Board of Zoning Appeals granted the variance. The only case in which strong opposition appeared resulted in a denial.

Variance requests per magisterial district varied greatly. Brookland District with a population of over 20,000 had 66 requests, while Varina District with a population of under 7,000 residents had only 5 variance requests. The more settled Fairfield District had only 31 variance requests from a population of 18,805. Tuckahoe District, with 11,095 inhabitants, had 55 variance requests. This large number of requests from a relatively small number of people can be attributed to the rapid growth of this district during the period. See Table 12.

Variance Requests 1960-65

The third period of study, the years 1960 through 1965, saw 949 variance requests come before the Board of Zoning Appeals. The sample included 185 of this number.

Sideyard: Sideyard variance requests again led all other types of requests in number. Of 35 requests, 24 were granted by the Board of Zoning Appeals. The Board granted sideyard variance 69% of the time. This was down from a 76% approval rate in the previous period. Seventy-one percent of the applicants chose to present their own case. This again is a rather sharp drop from the other two periods. Interest shown at the public hearings remained for the most part negligible. In only two cases did opposition appear to the advertised requests.

Sideyard variances, with one exception, were not over 1/3 of sideyard requirements. Those few sideyard requests that were denied were requests to make a sideyard less than 10 feet wide. Since these were proposed houses and not those already built, the Board of Zoning Appeals denied the requests and told the applicants to redraw their plans to conform to the Ordinance.

The only requests that the Board denied which were reasonable in area, were cases in which deceit may have been attempted. For instance, one person appeared before the Board requesting a three foot variance to build a carport. However, upon close examination an additional seven foot area had been included in the building plans. The Board denied the request. A sideyard variance for a carport was denied because the applicant was not satisfied with a single carport. He demanded a double one. When sideyard variance requests seem extreme, the Board often tried to compromise with the applicant.

Sideyard requests for nonresidence uses are not as liberally granted. For instance, a five foot service station sideyard variance, requested by a major oil corporation, was denied even though neighbors had no objections. The oil company proposed to eliminate a grass plot for more maneuverability. A variance request by a local construction company to place an office building on its property line was swiftly denied. Again no one objected, but the Board denied the request. Whenever requests were denied, the denial was usually based on the premise that no hardship had been shown and consequently the Board of Zoning Appeals was powerless to act.

The granting of sideyard variances for tax assessment purposes had little effect upon the value of land. Since the tract is above minimum building requirements, improvements may be made on the tract. The granting of a variance in this case enables the applicant to place a larger structure on the property than is otherwise permissible. The Real Estate Assessor does not increase the assessment of the property with the granting of this variance. Instead, it increases the value of the improvements as they are made.

Setbacks: The next most frequently sought relief was for setback regulations. Of the 32 cases that were heard, the Board approved 21 (66%). This rate of approval was down markedly from the 83% rate for the previous period. This lower rate of approval occurred despite the fact that only 13 cases were presented by the applicant. Almost 60% of the cases were presented by lawyers or other professional people, such as certified surveyors. The large number of denials and cases presented by lawyers can be traced to the fact that setback line variance requests were mostly matters of aesthetics. Unlike the first period, when setback line variances were requested for the most part to relieve extreme situations, most setback variance requests in recent years were for the situating of a house to make it look more pleasing or for business.

These requests, based on no degree of hardship, were the reason why the number of denials increased. Interest shown at the public hearings increased somewhat over previous periods. Opposition appeared at over 12% of requests heard. This again can be traced to aesthetics. The granting of a variance in setback lines effects the symmetry of a neighborhood, arousing neighbors.

In general, setback requests of greater than token distances were denied in residential districts. Most large setback variances that were granted were in nonresidential areas. Modern storefronts with protrusions are examples. A 100 foot setback requirement for a bowling alley on Cool Lane in Fairfield District was reduced to 10 feet in a 1961 request. In business and commercial districts, modern architecture and landscaping make a common setback no longer a necessity. A more harmonious and pleasing effect can even be achieved without a common setback line.

The granting or denying of a setback variance, since it seldom influences the improvability of a lot, has little or no effect upon its assessed value. However, once the building has been constructed and it is larger or otherwise more pleasing than it would have been without the variance, then the improvement is assessed at a higher value.

In rare instances, where there is a ravine or hill in the backyard, rendering the lot unbuildable if the required setback regulations must be met, then the receiving of a setback variance can remove the land from the almost worthless category. This is the type of setback variance which is granted in residential districts.

Width: Following setback lines in number of requests were petitions for relief from width requirements. This type of relief became more prevalent as the County became more urbanized. Twenty-nine requests of this type were heard during this six-year span. The Board approved these requests 83% of the time. This higher rate of approval was almost mandatory, as the refusal of this variance was tantamount to confiscation of the applicant's land. Unlike other types of variances where other alternatives are available to the applicant, denial of this variance prohibits

the building of any structure on the property in question. Thus the land is practically worthless as far as improvements are concerned. Despite the importance of obtaining approval, 65% of the applicants chose to present their own case. In over 14% of the requests, neighbors availed themselves of the opportunity to be heard in opposition to the proposal.

There are two avenues open to the Board of Zoning Appeals in deciding width cases. It can decide for or against a variance in width, or it can recommend to the applicant that he seek a lower zoning classification. For instance, if the applicant is in an R-1 Residential District where 80 feet of frontage is required, the applicant may be advised to seek a reclassification of his land to an R-2 designation where only 65 feet of frontage is required.

In practice this is done mostly by the Planning Commission. Instead of seeking reclassification, they advise the applicant to seek a variance if his lot does not meet the required standards.

Width requirements, unlike other variances discussed so far, if not met can make a piece of property almost worthless. Thus, the granting of a variance on width requirements has a profound effect on the value of the property itself.

The vast majority of width variance requests were in residential districts. Another frequent request was the waving of the 150-foot-lot width requirement in agricultural districts. Residents in rural areas would sell part of their tracts to friends or other members of the family. Unfortunately, these lots would be under the 150 foot minimum width for building in an agricultural district. With most lots averaging 110 feet in width, the Board of Zoning Appeals was asked to grant a 40 foot variance.

Reluctant to make the property in question unusable, the Board granted variances in 83% of the cases heard. Variances that were not granted were unusual cases. For instance, a variance of two inches to build a four unit apartment was denied. The applicant owned property adjacent to the tract in question, but refused to take the two inches needed for his adjacent property.

In another case, a developer made a 10-foot mistake in dividing lots, making one lot unusable. The Board denied his request for a variance. In general, the Board is not as forgiving of mistakes made by professionals as they are with laymen. The Board expects more of builders and developers and as a result, is not as lenient with them.

The granting of a variance in most residential districts raised values from 30% to over 100% depending upon location. Tracts in better districts showed the greatest increases in assessment. For example, the Board, over strenuous objection, granted a five-foot variance to permit a house on a 60-foot lot. The lot, located in Beverly Hills, an R-3 Residential District, increased in assessed value from \$240 to \$800 without the placing of a house on the tract.

Area: Minimum area requirements along with width requirements, were relaxed somewhat in the 1960 revision, in an effort to make more lots usable. Nonetheless, 20 applicants petitioned for area variances. Most requests were in residential districts of lower classification. In the dispensing of area variances, the Board again has the power of confiscation. Lots failing to meet minimum area requirements are unbuildable. Despite this, only 70% of area variance requests were granted. In most cases

where the Board refused the variance request, the tract in question would not pass necessary sanitation tests. Land not meeting Health Department standards is not usable irrespective of how large an area is involved. A lot that did not pass a percolation test was immediately reassessed downward by the Real Estate Assessor. For instance, one unimproved lot in West Broad Street Gardens was assessed at \$100 before an area variance was sought. When it was found the soil would not pass percolation tests, the request was withdrawn from the Board. The property was reassessed that year by the County at only \$40.

Property, that was granted an area variance, however, showed a considerable increase in assessed value. The granting of an area variance, again in West Broad Street Gardens, an R-4 Residential District, resulted in a doubling of the assessed value of the land from \$100 to \$200. In Wildwood, an R-2A Residential District, the granting of a 3,000 square foot variance resulted in an increase in assessment from \$320 to \$500. These are typical figures.

Most applicants asked for variances of between 3,000 and 4,000 square feet. The size of variance request had little effect upon the decision. However, as the variance requests became greater in size, the property became more likely to fail sanitation tests, thus resulting in denial. Most area variance requests came from cheaper, more poorly laid out subdivisions which, for the most part, were without utilities.

Despite the importance of this variance, only six applicants chose a lawyer to represent them. This is because of the generally poorer people involved. Interest shown was almost nil, as in only one case was any

opposition voiced. This lack of concern is attributable to the fact that most of the requests involved poorer neighborhoods. Consequently variances would affect both the value and beauty of the areas negligibly.

Public Road Frontage: A new feature of the 1960 Ordinance required that any residence erected in the County had to have at least 50-foot frontage on a public road. Prior to this requirement land owners would personally subdivide their land, selling lots bordering on no public roads. For access private roads had to be traversed. The County had planned to put an end to this practice as a result of the 1960 revision.

Consequently, a new type of variance request arose. Applicants appeared before the Board of Zoning Appeals seeking a 50-foot variance from the terms of the Ordinance. While these lots met all size and width requirements, they did not front 50 feet on a public road. Hence a 50-foot variance was needed. Twenty requests were brought before the Board. Surprisingly, 17 variances were granted. The Board acted as it did to relieve a hardship. Of the requests that were approved, invariably the applicant had already purchased the land in question. To refuse these poorer people this request would be confiscation of their property. Their property would neither be buildable nor salable. Since the land was purchased through ignorance rather than through any means of trying to deceive the County, the Board of Zoning Appeals capitulated. However, in any case where the tract in question had just been optioned by the applicant rather than purchased, the Board refused the variance. Again reflecting the more modest people involved, the applicant presented his own case 75% of the time. Because of the remote areas involved, not one case developed any opposition.

Backyard: Backyard requirements, though they existed since the original Ordinance, were the source of considerable numbers of variance requests during the final period. Of 18 requests heard, 83% were granted. The great increase in the number of requests in this category is attributable to a strengthening of requirements in the 1960 Ordinance. Where previously all residences were required to have only a 25 foot rear yard, most residential districts in the new Ordinance had requirements doubled to 50 feet. Rear yard requirements were similarly strengthened for business and industrial districts. The tendency to have one's case presented by a professional person continued, as 11 of 18 cases were presented by other than the applicant. There were a higher percentage of professionals presenting requests since the granting of a backyard variance can have an adverse effect on adjacent property, as light, air, and view may be cut off by adjacent protruding structures. Yet only two of 18 cases aroused any public response. Almost 90% of these potentially controversial requests were unopposed.

Two characteristics of modern America began to present themselves before the Board of Zoning Appeals through the mid-1960's: the parking lot and the sign. Both were brought under control of the Ordinance by necessity.

Parking: Parking regulations first appeared in the Ordinance in 1945. Since that time, as society has become more dependent upon motor vehicles, parking regulations have been repeatedly strengthened. In 1960, not only did parking space requirements have to be met, but lots were required to be paved, guttered, lighted, and landscaped. The farsightedness of requiring off-street parking with every structure built in the County since 1945, is

resulting today in less congestion in some of the more highly urbanized sections of the County. With the price of land becoming prohibitive, developers sought ways to cut costs. First on their list to be cut were parking requirements. The Board of Zoning Appeals, however, had different ideas. Parking requirements were reduced only for churches and civic organizations and usually only then if ample adjacent parking was available. For instance, churches located next to shopping centers or office buildings were granted relief because at the time churches would usually hold services, on Sunday or at night, these commercial parking spaces would be available for use. Of eight parking petitions to appear before the Board, 38% were denied. Only two of eight cases were presented by the applicant. Interest shown, however, again was negligible.

Signs: Suburbia is going through a period today that can be characterized as the battle of the signs--not only the gaudiest sign, but the highest sign, widest sign and tallest sign. One oil company tries to outdo the other in the placement of its signs. If signs went uncontrolled, the roads of the County would long ago have been nothing but one giant billboard.

The nuisances of signs were recognized early and were brought under control of the original Ordinance. Most disputes today concern signs which accompany businesses, such as an oil company herald at a service station. Firms are ever trying to move their signs closer to the road or place their signs higher to get what they think is a competitive advantage. The granting of this type variance today will lead to the requesting of 100

tomorrow. If the Ordinance on signs is strictly enforced then all are at so-called equal "competitive disadvantage!"

Of 12 such cases that appeared before the Board only two (17%) were granted. In 11 of 12 cases (92%) lawyers presented the requests. Surprisingly, in no case was any outside interest expressed. This may be attributable to apathy on the citizens' part or no interest was shown because residential neighborhoods were not involved. Still, it would be thought that the applicant's competitors would strenuously object, if for no other than competitive reasons.

Other: There were 11 other miscellaneous variance requests ranging from the establishing of a home beauty shop near the New Kent County line, to a minor interpretation of a granted variance. Of these requests only 5 of 11, or 45% were granted. Four requests were presented by lawyers. No interest was shown in any case.

The Board of Zoning Appeals heard more cases in less time than it had ever heard before. As in past periods, sideyard and setback requests headed the list in frequency. However, with the introduction of newer and stronger restrictions, new types of variance requests are being heard in ever increasing numbers. This is only to be expected. During this period the Board approved 69% of requests in the sample. The applicant presented his own case in only 54% of the variances requested. This is a marked decline from previous periods. When the applicant did represent himself, the request was granted 74% of the time. When attorneys or professional people presented a variance request, it was granted 65% of the time. Again it must be noted that in most instances, attorneys presented only the more difficult variance requests.

Table 13. Analysis of Variance Requests: 1960-1965

Type of request	% of total requests	% approved	% presented by appli.	% no int. shown	% pres. by appli.app.	% pres. by repr.app.	% app. with no int.	% app. with opposition
Sideyard	18.9	68.6	71.4	94.3				
Backyard	9.7	83.3	38.9	88.9				
Setback	17.3	65.6	40.6	87.5				
Width	15.7	82.8	65.2	85.7				
Area	10.8	70.0	68.4	94.7				
Parking	4.4	62.5	25.0	75.0				
Rd. Frnt.	10.8	85.0	75.0	100.0				
Signs	6.5	16.7	8.3	100.0				
Other	5.9	45.4	42.1	89.5				
Total	100.0	68.6	54.5	91.8	73.5	64.7	70.2	60.0

Magisterial District	% of 1960 population	% of valiance requests
Brookland	33.1	37.8
Fairfield	26.8	22.2
Tuckahoe	32.7	32.2
Varina	7.4	7.8

Interest shown at public hearings increased only slightly over preceding periods. In 91% of all cases heard, no interest was shown. Where no interest was shown, 71% of the requests were granted. This was slightly higher than the over-all approval rate. In cases where opposition appeared, 60% of the requests were granted.

By magisterial districts, Brookland again led in number of variance requests with 68. Tuckahoe, which in this period became the second most populous magisterial district, had both 1/3 of the population (32,825) and 1/3 of the requests (58). Fairfield District was third in both population and requests, with 32,825 residents and 40 variance requests. Varina District showed the greatest percentage of increase in requests asked. Fourteen requests were brought before the Board by its 8,723 residents.

The Board of Zoning Appeals renders a great service in the swift manner in which it gives its decisions. Waiting for its decisions are contractors and others who have both men and money detained. During the third period, over 80% of all decisions were rendered on the day the request was first heard. In less than 5% of the cases was the decision rendered longer than one month after the case was heard. See Table 13.

Comparison of Periods

In the more than three decades that the Board of Zoning Appeals has heard requests for relief from the Ordinance, the County has transformed from a rural county to an urban-suburban one. During this 1/3 of a

century the rate of approval by periods is remarkably consistent. This is in part due to the long tenure of the members of the Board and the overlapping of terms. This has led to consistency of manner, thought, and procedure.

Taking all of the 2,594 variance requests heard, 2,004 were granted for an over-all approval rate of 77%. For individual periods, variances were granted at rates of 79%, 79% and 74%. The major types of requests that have appeared before the Board have also been constant. Sideyard and setback requests have continued to predominate. With new restrictions, came new types of variance requests. Minimum area and road frontage relief requests are examples.

Though the relative order of most frequently requested reliefs has changed little, the wider variety of variances has changed the percentages. For instance, during the first period 45% of all requests were for relief of sideyard requirements. This decreased to 33% in the second period and 19% in the final period. While the percentage of sideyard requests has fallen more than 1/2, sideyard requests have still remained the most requested variance. See Table 14.

Perhaps the greatest change over this period of time has been the manner in which the requests were presented before the Board of Zoning Appeals. During the first period, 84% of the applicants presented their own cases. This declined to 82% in the second period. Since 1960, the number of applicants presenting their own cases has plummeted to about

1/2 or 53%. This is a marked change, attributable mostly to more aesthetically based requests appearing before the Board and the trend to employ the services of specialists.

Public interest in variance requests has remained relatively constant at the no interest level since the Ordinance was enacted. People do not concern themselves with their neighbor's minor requests. Ignorance of the request is no excuse, for the Ordinance requires that all adjacent property owners be notified of a requested variance. The Board has looked upon a man's home as his "castle." As a rule they have let him alter his "castle" within reason.

In none of the periods did over 10% of the requests provoke any opposition. Seven percent of the cases presented in the first period provoked opposition; this fell to 2% in the second period. During the third period, 9% of requests stirred some form of opposition. While this is somewhat of an increase over the second period, it is still low. When opposition was present to a request, the Board paid some attention. For instance, in the third period, of the 15 requests where opposition was present, 40% were denied, as compared to a denial rate of 24% when no opposition appeared.

As discussed earlier and as can be seen from Table 14, requests generated by the magisterial districts were proportional to the population in each district. Varina District until recently has had fewer requests than would be expected because of the size of tracts in this district. In the Post-War period variance requests from Tuckahoe District far exceeded

expectations because of the tremendous growth taking place. During the same period in the older, more settled Fairfield Magisterial District, relatively few variances were sought.

Over time the Board of Zoning Appeals has had an enviable record for promptness in rendering decisions. During the first period, 98% of all decisions were given the day the request was heard. During the second period this percentage slipped to 84%, while only 2% took longer than two months to decide. In the 1960's, 81% of all decisions have been rendered on the date the case has been first heard. This percentage has slipped slightly because of carelessness in the applicant's preparation. For instance, in many cases the applicant has failed to obtain all required signatures. Since 1960, 1% of all cases took over two months before a decision was rendered.

Looking back over three decades of decisions by the Board of Zoning Appeals, one can see that they have been deliberate and fair. However, their greatest achievement has been their consistency. Without this consistency of decision, they would have been forced to hear even more requests. Knowing the Board's past record, many applicants did not bring their request before the Board of Zoning Appeals, knowing it would be rejected.

Table 14. Analysis of Variance Requests Compared: 1933-1965

Type of variance request	Period I			Period II			Period III		
	% of total request	% approved by applic.	% presented by applic.	% of total request	% approved by applic.	% presented by applic.	% of total request	% approved by applic.	% presented by applic.
Sideyard	45.2	75.8	84.8	32.6	90.1	88.6	18.9	68.6	71.4
Backyard							9.7	83.3	38.9
Setback	38.3	82.1	85.7	13.3	83.3	77.8	17.3	65.6	40.6
Width				8.1	81.8	72.7	15.7	82.8	65.2
Area				33.3	75.6	80.0	10.8	70.0	68.4
Parking				2.1	66.7	66.7	4.4	62.5	25.0
Road Front							10.8	85.0	75.0
Signs							6.5	16.7	8.3
Other	16.5	58.3	75.0	10.6	61.5	83.3	5.9	45.4	42.1

Table 14. (continued)

Magisterial District	Period I		Period II		Period III	
	% of 1940 population	% of requests	% of 1950 population	% of requests	% of 1960 population	% of requests
Brookland	32.5	28.6	36.0	42.0	33.1	37.8
Fairfield	27.8	34.9	32.8	19.7	26.8	22.2
Tuckahoe	26.5	30.2	19.3	35.0	32.7	32.2
Varina	13.2	6.3	11.9	3.3	7.4	7.8
Presented by		% approved		% approved		% approved
Applicant		75.4		81.8		73.5
Representative		75.0		72.0		64.7
Interest shown						
No interest		78.3		81.1		70.2
Opposition		25.0*		50.0*		60.0*

* Insignificant data.

ANALYSIS OF ZONING REQUESTS

Zoning Requests: 1933-1945

Unlike variance requests, the process of hearing rezoning petitions has two distinct steps. By Virginia statute, a planning commission, or previously the Board of Zoning Appeals, must conduct a public hearing on the request and issue an advisory decision. After this advisory decision, the Board of Supervisors conducts another public hearing before rendering a decision. Though the decision of the advisory board¹ is in no way binding, the Board of Supervisors may not hold a public hearing on a case until the advisory board has done so.

This process has been followed in the County of Henrico since 1933, in 1,916 cases. From 1933 to 1945, a total of 105 petitions for rezoning appeared before the Board of Supervisors. The sample includes 70 of these requests. Zoning requests during this first period were necessarily major use changes for until an airport district was added in 1942, there were only four use districts. Most requests during this period centered around two changes: from "A" Residential to "B" Business and from "D" Agricultural to "B" Business.

Over 1/2 (51%) of all requests were petitions to change districts from agricultural to business. Henrico County was for the most part a rural county. Most people still were without cars. If they did possess

¹ "Advisory board" in the first period refers to the Board of Zoning Appeals.

cars, roads were so bad that travel was hazardous. Since people could not get to the stores, the stores came to them. Thus, in Henrico County, as in other counties, wherever two paved roads intersected there was a general store. Since the vast majority of the County was zoned agricultural, nearly all land had to be first rezoned whenever someone wanted to establish a store. As a result, 36 rezoning requests from agricultural to business were heard. The Board of Zoning Appeals, which heard zoning requests until 1956, recommended that 22 (61%) be granted. The Board of Supervisors, however, saw fit to approve only 19 of the 22 requests recommended. Thus only 1/2 (53%) of the original requests were granted. Most of these requests, 83% to be exact, were presented before the Board by the applicant himself. Despite the radical use change from agricultural to business, over 3/4 (77%) of the cases aroused no interest. While the 19 requests that were granted is no tremendous number, nonetheless, most of these general stores remain. The majority are now in the midst of residential areas. These corner stores are perfect examples of spot zoning.

The other major rezoning request was from residential to business. This type accounted for 34% of all requests during this period. Of 24 requests, 19 (79%) were recommended by the Board of Zoning Appeals. However, the Board of Supervisors granted only 16 (67%). Most requests again were single lot, spot zoning requests. They were justifiable at the time for convenience sake. As was the custom in this period, 78% of all requests were presented by the applicant himself. While representing himself, the applicant succeeded in 71% of the cases. Over 70% of the requests were heard with no objections.

The remaining zoning cases heard during the period were of a varied nature. Interestingly, there was only one request to change from a business to an industrial district. This request was approved. There were only three requests to change from an agricultural to a residential classification. There are a few reasons for this. First of all, this entire period was either within the Depression or World War II. During the Depression no one was building houses simply because no one could purchase them. In wartime money was available, but construction materials were not. Furthermore, there was little incentive to change districts as the uses permitted in both residential and agricultural districts were the same. Of these three cases, two were approved by both Boards, while the other was denied.

After the 1942 addition to the Ordinance, there were three airport zoning requests. Each case was well attended by those opposed to the establishment of any airport. The objectors complained about everything from noise and dust to the disruption of their egg business. Two of the proposed facilities were to be located in the western section of Henrico County, one near Horsepen Road and the other further west on Broad Street Road. Despite vocal opposition, two of the three requests were recommended to the Board of Supervisors. The Board of Supervisors approved one request and as a result Northfield Airport, a small airport near the Chickahominy Swamp was established. It is used by small, private planes today.

In retrospect, the first period was a rather quiet one. The zoning requests that arose were for the most part minor in scope and nature.

The Board of Zoning Appeals recommended 70% of the cases it heard, while the Board of Supervisors granted only 57%. Over 3/4 of all cases were presented by the applicant himself. Only 1/4 (26%) had any objectors. While this was a greater percentage than for variance requests in this period, it still was quite low. Where objection to the proposed change was voiced, only 44% of the requests were granted.

The relative quietness of this first period can be attributed to a few factors. As mentioned before, the nation was mired in the Depression or involved in World War II for the entire period. Neither of these conditions is conducive to building. Secondly, the Ordinance may have originally been drawn so well that little modification was necessary. In addition, population was still relatively small. Finally, types of uses permitted in the various districts were quite broad.

Requests for rezoning originated from the magisterial districts according to population. Brookland District, with 1/3 of the population, generated 34% of the requests. Tuckahoe District had both 1/4 of the population and 1/4 of the requests. Varina District, with 13% of the population, had only 3% of the requests, while Fairfield District with only 28% of the population had over 34% of requests.

Seventy percent of all cases that appeared before the Board of Zoning Appeals were decided on the day heard. Another 17% were decided in one month, while still another 5% took two to three months before a decision was rendered. Only 3% of all cases took over three months to decide.

Table 15. Analysis of Zoning Requests: 1933-1945

Type of zoning request	% of total requests	% approved by adv. boa.	% approved by B. Sup.	% presented by applicant	% no int. shown	% approved pres. by applic.	% approved no int. shown	% approved with opp.
R to B	34.3	79.2	66.7	78.3	70.8			
A to B	51.4	61.1	52.8	82.8	77.1			
Other	14.3	80.0	50.0					
Total	100.0	70.0	57.0	75.4	73.9	70.9	80.4	44.4

Magisterial District	% of 1940 population	% of requests
Brookland	32.5	34.5
Fairfield	27.8	34.5
Tuckahoe	26.5	27.6
Varina	13.2	3.4

The Board of Supervisors acted with slightly greater speed. While again just over 70% of the cases were decided when they were first heard, only 1% were delayed over three months. See Table 15.

Zoning Requests: 1945-1960

It was during the second period of study, the years 1945 to 1960, that the County was transformed from a rural County to an urban-suburban one. Fortunately, the County's Zoning Ordinance was able to meet this rapid expansion, as it was revised and strengthened in 1945, and again in 1953. Population in the County more than tripled during this period. Preceding and accompanying this population explosion was a rapid acceleration in the number of rezoning requests. There were 1301 requests for change during this period. This was eight times the number of requests heard during the Depression and War.

Variance requests are a function of population size and characteristics. That is, most variances are sought by homeowners. Zoning requests, however, precede population. The zoning request must be granted before homes and businesses are constructed. Zoning precedes population expansion. For instance, Tuckahoe Magisterial District had a population of 11,095. This was only 19% of the 1950 population of the County, but yet 198 zoning change requests came from Tuckahoe District during this period. This was 31% of all requests. With the approval of the vast majority of these zoning requests, the stage was set for the construction of residences. The end result was a tripling of population in Tuckahoe District during the decade of the 1950's.

As Henrico County was transformed from the rolling woods to suburbia, most zoning requests involved the transferring of land from an agricultural designation to another use district, mostly residential. About 75% of all requests during the period were petitions to remove lands from an agricultural designation. The great majority of requests were approved with little question. Yet, despite the great number of amendments to the district maps, today over 1/2 the County remains designated for agricultural use. However, most of the land is in Varina District awaiting the extension of public utilities.

A to R-4: The most frequently sought zoning request was from an agricultural designation to the R-4 Residential District. All told, 155 of these requests were made. This was 20% of the total requests. The R-4 Residential District was the lowest single family residential district in the Ordinance. With minimum requirements of 5,000 square feet and 40 foot average lot width, this district appealed to developers. This designation gave the developer the protection of a single family residential district, and at the same time allowed him to develop his tract at a relatively high density. This meant more lots per acre and consequently, greater returns to the developer. Most early Post-War subdivisions were built in this designation. Standing like soldiers in a row, these were the original row houses of suburbia. Most of these houses are now a generation old, and they show it. As the ex-G.I.'s became more affluent, they "traded-in" their row houses for larger homes in the newer, better planned subdivisions of the late 1950's. As a result, these original Post-War homes

are in the hands of their second or third owners. Quite a few are rented.

Of 155 requests, 136 were recommended by the advisory commission.¹ This was an approval rate of 87%. The Board of Supervisors granted a few more cases than were recommended to it, as it granted 90% of all agricultural to R-4 requests. Running counter to the trend, over 3/4 of these cases were presented by the applicant. Opposition to this type of request was non-existent. At 99% of the hearings, no opposition appeared. This marked indifference can only be explained by the fact that the vast majority of requests were not located near populous districts. Neighboring land owners were not opposed, as they watched with eager anticipation, ready to cash in their real estate holdings also.

A to R-2A: Another 23% of requests were petitions to change from agricultural to residential districts other than the R-4 District. Most of these were requests to change to the R-2A classification. This classification, with 11,000 square feet minimum lot area and 65 foot minimum width, was desired for the better planned subdivisions. Of 109 requests, the advisory board approved 100 and the Board of Supervisors 99. This is just over a 90% approval rate for both Boards. Only 43% of the requests were presented personally by the applicant. As requests became

¹ "Advisory board" or "Advisory Commission" refers to either the Board of Zoning Appeals or Zoning Commission. Both bodies heard zoning reclassification requests during this period - The Board of Zoning Appeals until 1956, and the Zoning Commission from 1956 to 1960.

both greater in size and in value, professionals began to dominate in the presenting of requests.

A to R-0, R-1, R-2: There were 37 requests to rezone from an agricultural designation to the more restrictive R-0, R-1, and R-2 Residential Districts. Most requests originated in the Tuckahoe District. Thirty-two of the 37 requests were recommended by the advisory board, but the Board of Supervisors approved only 30. Professional people presented 57% of all cases heard. Interest again was negligible, with less than 3% having any opposition. This lack of opposition is quite understandable. What adjacent property owner would object to a fine residential neighborhood adjoining his property?

A to R-3: The remaining agricultural to residential requests were to the R-3 Residential District. More residential land is in this district than in any other residential district in the County. With minimum requirements of 10,000 square feet and 65 foot width, residential areas in this classification ranged from cheap Post-War row houses to some of the finer residential districts in the County. Only 29 of this type request were heard. This is because most R-3 districts were rezoned. The land was zoned R-3 while idle, and thus no reclassification was required to improve these tracts. Of 29 requests, the advisory board and the Board of Supervisors approved 25 and 26 cases respectively. As in other requests of the period, the majority (69%) were presented by a representative of the applicant. Interest again was negligible, as less than 4% were opposed.

The size of tracts requested to be rezoned from agricultural to residential varied from 295 acres to less than 1/2 an acre. Larger requests were usually to reclassify to a R-4 district. Two tracts, one on Harvie Road and the other off Hungary Road, contained over 250 acres each. In approving larger tracts there was no question of spot zoning, since the tracts under consideration were communities in themselves.

The more restrictive residential district requests were generally smaller in area. Only two requests for the R-0, R-1, and R-2 Residential Districts were over 10 acres. One, however, was a 130-acre request to rezone a tract north of Broad Street Road from agricultural to a R-1 District. This request of a prominent local developer was approved by both Boards. The relatively smaller size requests for the more restrictive residential districts is due to two things. First, when other land in the area was rezoned into residential use, lots that were not explicitly requested were left in agricultural use. In effect, these lots were the few remaining pieces in a jigsaw puzzle. Secondly, large tracts under single ownership were rezoned into less restrictive residential districts so they could be developed at a higher density.

Consequently, the average size request of rezoning to a R-4 District was about 20 times the size of a request to an R-0 or R-1 District. Tracts requested to be zoned into the R-3 Residential District varied in size from less than acre lots to tracts approaching 200 acres. The wide range of requests illustrate the varied types of housing that go into the R-3 District.

Individuals, owning lots too small to be improved in their current zoning classification, were generally denied their requests to rezone to a more intensive use. For instance, a person owning a 130-foot-wide lot in an agricultural district could not build a house on it since width requirements were 150 feet in that district. Thus, the owner would appeal for a change in zoning to a residential district, where a 130-foot lot would be more than required by Ordinance. The advisory board, however, would in most instances deny the rezoning request as it would constitute spot zoning. Instead, they would recommend that the applicant seek relief from the width requirements of the Ordinance.

A to B: Agricultural to business requests accounted for 25% of all cases heard. This is down from over 50% in the first period. Most requests were not the single lot, general store request of the preceding period. Instead, they represent the vast array of service stations and neighborhood shopping centers spread throughout the County. Also, included are single businesses requiring larger floor areas than could economically be obtained in the City of Richmond. Furniture stores are an example. As the population moved into the County, established, well-reputed firms in search of larger, more modern quarters moved with the population. Since the War, major thoroughfares such as West Broad Street have become general business districts, consisting mostly of individual, modern, pleasing structures. Of 191 requests of this type, the approval rates by both Boards were 68%.

About 1/2 of these requests were made prior to the 1953 revision which created multiple business districts. After this revision, the

predominant number of requests were to the B-1 Community Business District. Fifty-five of 84 requests after the revision were for the B-1 Business District. This district, as shown previously, is solely for neighborhood business. Over 40% of all business requests were presented by lawyers. Reflecting the dislike of residents having a business district adjacent to their property, around 10% had vocal opposition.

With few exceptions requests to change from agricultural to business uses were for tracts under 10 acres. Occasionally, a neighborhood shopping center request would be greater in size. The largest tract to be rezoned from agricultural to business was a 120-acre tract west of Horsepen Road on Broad Street Road. This request was made in 1954, by a national corporation, who desired to move its home office to Richmond. Today, this office-research center complex is the most valuable property in the County.

While rezoning agricultural land to business use is not exceedingly difficult, such rezoning for the purpose of operating an amusement park or recreation area is almost impossible. For instance, a request to rezone over 32 acres from agricultural to business use for the purpose of operating an amusement park in a colored neighborhood was denied. Although the request was in a colored neighborhood, white clergymen objected on grounds of morality and alcoholic beverages. A similar request by the same person involving 64 acres was also rejected.

A to M: Industry also shared in the Post-War search for larger and more modern plants. With little or no land available for such uses

in Richmond, industrial concerns had to turn to surrounding counties. Chesterfield County, with a less restrictive zoning ordinance and with a great amount of existing heavy industry, was the recipient of most industrial shifts in the area. The Tri-Cities area of Chesterfield County, with an abundant labor force, water supply, and few restrictions, is a natural haven for industry. Nonetheless, Henrico County had 29 requests to reclassify agricultural land for industrial uses. This was 5% of all requests.

A request to rezone from an agricultural to an industrial use is a drastic use change. The advisory board recommended only slightly over 1/2 of the requests presented. The Board of Supervisors was more liberal in its decisions, as the Board granted 2/3 of all requests.

Despite these radical shifts in use, only 20% of the cases aroused opposition. This again is largely attributable to a wait-and-see attitude of adjacent land owners, who were waiting to get on the "gravy-train." As would be expected in such "tough" cases, over 1/2 the requests were presented by representatives of the applicants. Since industrial sites require a large area, only three requests were for tracts under 5 acres. In fact, over 1/2 of the requests involved tracts of over 100 acres. One request was for 346 acres. This request was to rezone a swampy area north of Richmond to a M-4 Heavy Industrial District so that an asphalt plant might be constructed on the site. It was rejected because it was not in keeping with the Land Use Plan.

Another attempt to rezone a 100-acre tract for industrial purposes in the Tuckahoe Creek area of Tuckahoe District was rejected on the

grounds that industry would not be in keeping with the general area. Tracts of over 100 acres were rezoned to industry in eastern areas of the County. Parts of Portuguese Road along the C & O railroad tracks have been redesignated for industrial use. The lower portion of Varina District on the James River is also zoned for industry.

R to R: The remaining zoning reclassification requests account for only 1/4 of the total number. Requests to rezone residential districts accounted for most of this number. Requests to change from one class of residential district to another were quite rare. Only nine such cases appeared before the Boards. Five requests were attempts to rezone so that apartment houses could be constructed. Only two were granted. The remaining four cases were attempts to reclassify a residential district to a more restrictive use. These requests met with mixed success. For example, an attempt of a civic association to rezone their neighborhood, which included both sides of U. S. Highway 301 in Brookland District, failed. The Board of Zoning Appeals told representatives of the group that they would look with favor on the request if every resident's signature in the area involved could be obtained. The civic association could not get 100% backing to their proposal. Thus, after a few months the matter was dropped. The civic association sought reclassification in an effort to prevent the intrusion of homes not in keeping with the standard of the neighborhood. Aside from this request, areas involved were under 10 acres.

R to B: Residential to business requests accounted for over 14% of the total requests of the period. Of 47 cases which fell in this category, both Boards approved 32 (68%) of the requests. This type of request was down sharply from the first period for reasons listed earlier. There were only four requests to rezone R-1, R-2, and R-3 Residential Districts for business uses. The vast majority of requests were to rezone R-4 Districts to B-1 Community Business Districts. Of 37 requests, the advisory commission recommended that 26 be granted. The Board of Supervisors granted 26. This request is the modern-day counterpart to the old "general store" corner zoning. Today instead of the general store, it is a gasoline station or a drug store. Just under 1/2 (48%) of all residential to business requests were handled by the applicant himself. Perhaps showing an increasing awareness by the public, only 3/4 went unopposed.

B-1 requests were unusually small in area. A few R-4 to B-1 requests were only for .2 acre. The minimal area involved did not adversely affect the decisions of the Boards, as in every case the request was approved. However, most of these requests were adjacent to current business districts.

Other attempts to rezone residential areas so that motels could be built met with no success, even though the properties in question exceeded six acres in size. Residents of the neighborhood opposed vigorously. Since both U. S. Highways 1 and 301 entered Richmond through Henrico County, this request was not uncommon. Occasionally a resident, seeing money to be made, would try to rezone his property so

as to erect a motel. In each instance, however, residents of the area united to oppose the request. To date, not one of these requests has been approved. This request is no longer as common since the advent of Interstate Highway 95.

Not to be neglected were two reclassification requests from residential to industrial. Both were denied in the advisory decision, although one was granted by the Board of Supervisors when no opposition appeared to the request. The request that was denied was an attempt to construct a cinderblock manufacturing plant on a 2.8-acre site in northern Henrico County. Despite the appearance of three people in favor, one resident of the area, citing the large number of small children living in the immediate vicinity, convinced the Zoning Commission and the Board of Supervisors that this was not the proper location for such a district.

Interestingly, a few petitions were heard requesting the rezoning of residential lands to agricultural uses. Though there were only seven such cases, these are nevertheless noteworthy. Great tax savings theoretically can be accrued by this shift. Since land is assessed by the Real Estate Assessor at its highest possible use, land zoned as residential, though it may lay idle, is taxed at a residential rate. By rezoning into agriculture, the owner can reduce his tax bill considerably. The advisory board recommended five requests, while the Board of Supervisors saw fit to grant only four. Six requests were from R-4 Residential to agricultural use.

An attempt to rezone 130 acres from a R-4 Residential District to agriculture in Varina District was recommended by the advisory board, but was denied by the Board of Supervisors.

Other attempts were smaller in scope. A property owner on Francis Road wanted his land reverted to agricultural designation so he could keep cattle. This five-acre request was granted.

B: Requests to rezone business and industrial districts were few and scattered in pattern. Until the 1953 revision, there was only one broad business and industrial land use designation. During the entire 15-year period, only 15 requests were heard to rezone business districts. Three requests asked rezoning to a residential use. In one case, the Zoning Commission, in an effort to protect an adjoining community, recommended a 4.7-acre tract on Wilkinson Road be rezoned from B-1 to R-2 to conform with the rest of the area. All other requests, with one exception, were requests after 1953 to change classifications within business districts. All requests were from a less intensive to a more intensive use district. All but two were recommended to the Board of Supervisors, who granted one less than was recommended to it. There was only one request to rezone from a business to industrial use. This request, while recommended by the Board of Zoning Appeals, was denied by the Board of Supervisors. The lack of requests for this type of reclassification can be explained in part by the location of business districts in the County. Most business districts front on major thoroughfares. To use valuable frontage for manufacturing would not be using land to its best advantage. Frontage

is valuable sales and display area. Generally it is not economically feasible to use high-valued commercially zoned land for industrial purposes.

M: There were only four requests to rezone industrial areas. All requests sought rezoning from a less intensive industrial use to a more intensive one. Rezoning from industrial use is rarely requested. Industrial districts are usually created where the land has little chance for better use. Industrial districts are often "catch all" areas. Examples in Henrico County are areas bordering railroad tracks, lowlands in the Chickahominy Basin and portions of Varina District near the Port of Richmond. There has been less tendency to spot zone industrial areas than other use districts. Spot zoning of industrial areas would have dire consequences so far as land use is concerned.

Despite the fact that these requests met rigid distance requirements, the advisory board recommended only two requests. The Board of Supervisors, however, granted all four requests. Size of area involved meant little as requests were granted for tracts as small as an acre and as large as 137 acres.

Summary of Period II

This 15-year period saw the transformation of Henrico County. It was a period that saw both a change in the Ordinance and a change in requests. Land use underwent a rapid change, setting the pattern for the majority of the County for decades to come.

The reclassification of agricultural lands overshadowed all other requests. Where at the end of the War there had been acres of fields and woods, there were now thousands of houses.

The number of cases recommended by the advisory boards and those finally granted by the Board of Supervisors were almost identical. Of all cases heard by the advisory boards, 78% were recommended to be granted; the Board of Supervisors in turn granted 79%. This is a remarkable adherence. It contrasted to the first period when the Board of Zoning Appeals recommended 70% of the cases it heard, while the Board of Supervisors granted only 57%.

Presentation of requests changed markedly. In the previous period, most requests were of a single lot nature. Over 75% of the cases were presented by the applicant personally. As requests became greater in size and in value, applicants had their cases presented before the Boards by their representatives. About 1/2 (45%) of all cases were presented by other than the applicant. When the applicant presented his case personally, the advisory board granted his request 77% of the time. When a representative presented the case, it was recommended 79% of the time.

Interest shown at public hearings was lacking, for reasons heretofore mentioned. In 93% of all cases heard, no interest was shown. This was up from 74% in the preceding period of study. Where no interest was displayed, the advisory board recommended 82% of the requests. Where opposition appeared to the proposed change, the advisory board recommended only 33% of the requests. This is quite a significant

point. If citizens take the time to express their interest in a matter, the Board will, for the most part, heed their objections. The figures from the preceding period show the same results.

Requests coming from magisterial districts of the County conformed roughly to population, with one exception. The exception was Tuckahoe District, which was discussed earlier. Otherwise, Brookland District with 40% of the population had 1/3 of the requests. Fairfield District with 1/3 of the population had over 28% of all requests. The less populated Varina District with under 12% of the population had 9% of zoning requests. The percentage of requests from Varina District usually trails its percent of population because large tracts are owned by individuals and corporations, who in turn have tenants.

The advisory board rendered a decision on the day it first heard a case 3/4 (74%) of the time. Twenty percent were deferred for one month before a decision was rendered. Less than 3% of all cases took two months for a decision to be rendered, while another 2% required more than 3 months. This rate of decision rendering is remarkable when it is considered that most cases delayed for one month were delayed because of procedural difficulties, which were the fault of the applicant.

With most procedural difficulties overcome, the Board of Supervisors rendered an immediate decision in 88% of all requests. An additional 8% were given after a delay of one month, while only 2% of the decisions took more than three months to render. See Table 16.

Table 16. Analysis of Zoning Requests: 1945-1960

Type of zoning request	% of total requests	% approved by adv. boa.	% approved by B. Sup.	% presented by applicant	% no int. shown	% approved pres. by applic.	% approved no int. shown	% approved with opp.
R to B	14.4	68.1	68.1	47.9	78.3			
A to R, R-1, R-2	4.9	86.5	81.1	42.3	97.1			
A to R-2A	14.4	91.7	90.8	42.6	98.1			
A to R-3	3.7	86.2	89.6	31.0	96.4			
A to R-4, R-5	20.8	86.1	89.2	78.3	98.7			
A to B	25.5	67.5	68.1	59.6	91.9			
Other	16.3	63.0	67.1	40.3	80.3			
Total	100.0	77.5	78.6	54.9	93.0	77.2	82.1	33.3

Magisterial District	% of 1950 population	% of requests
Brookland	36.0	32.6
Fairfield	32.8	28.2
Tuckahoe	19.3	30.7
Varina	11.9	8.5

Zoning Requests: 1960-1965

The third period of study, the years 1960-1965, may be characterized as the years of maturity. The 1960 Ordinance, while introducing little that was significantly different, was a comprehensive instrument.

For the first time since the enactment of the original Ordinance, a revision was based on a land use study. The period of rapid growth for the County was over. Population continued to increase, but at a less rapid rate than in the 1950's. While the population doubled in the decade of the 1950's, it is not forecast to double again until the mid-1980's. When the Land Use Plan was drawn, the planners projected population in 1980, to be 205,000.

The Land Use Plan had a significant effect upon the Planning Commission and its recommendations to the Board of Supervisors. Most recommendations of the Commission were justified by being "in conflict" or "not in conflict" with the Land Use Plan. This Plan was the major tool used by the Commission in an effort to direct orderly growth. Each zoning request was examined to see how it fit into the broad scheme as outlined in the Land Use Plan.

The Planning Commission, upon enactment of the 1960 Ordinance, took office January 1, 1960. Through its first six years, it heard 454 zoning requests. The number of requests heard yearly is down considerably from the level of the 1950's. In 1955, the Board of Zoning Appeals, who were hearing zoning requests at that time, heard 127 requests for rezoning. Ten years later, in 1965, the Planning Commission

ruled on only 68 requests. Zoning reclassification requests are a function of growth. As the rate of growth has leveled off, rezoning requests have dropped.

With a leveling of the growth rate has come a rapid decline in the number of requests to rezone agricultural districts. Aside from the decline in the growth rate it must be mentioned that, while over 1/2 the County remains in an agricultural designation, nearly all of this land is in the northwest section of the County, the low-lying Chicahominy River Basin or Varina District. Currently, these areas do not have first rate growth potential. The northwest part of Brookland District is rather far from Richmond and has intermittent colored neighborhoods. The northeastern part of Fairfield District is handicapped by both distance and a low level of ground. The Varina District is relatively difficult to reach although it is actually closest to the center of Richmond. It is further handicapped by a high water table and low ground level. Interstate 295, Richmond's circumferential highway, is scheduled for completion by 1970. This highway will traverse each of these sections, opening new means of access and egress.

Of the 454 requests heard, the sample includes 200. Agricultural requests were not the most widely sought reclassifications. Still there were 27 requests in this period to rezone agricultural lands for residential purposes. The Planning Commission recommended 22, while the Board of Supervisors approved 23. There were no requests to rezone tracts into R-0 or R-1 Residential Districts. This is because there are only two areas of the County which rate this classification. With

these exclusive areas already zoned, there was no land in the vicinity that needed zoning.

A to R-2: Six requests asked redesignation to the R-2 District. All but one were granted by both bodies. The size of tracts involved was rather large, varying from 10 to 137 acres. One of the smaller requests was to rezone a 10-acre site on Wilkinson Road. The R-2 District was requested because this was the designation given adjoining subdivisions. The developer wished to place a compatible subdivision on the site. Since the proposed use was in line with the uses outlined in the Land Use Plan, the Planning Commission recommended the request. The Board of Supervisors followed suit. As a result, assessment went in one year from \$31,200 to \$36,800, despite the fact that no improvements had been made on the property.

A prominent local developer requested that a 137-acre site be rezoned. This large tract in an old, colored neighborhood in Tuckahoe District was rezoned in 1961, with no delay. Despite the fact that no construction had been started on the site since the request was granted, assessed value went from \$6,880 in 1960, to \$36,000 in 1962. This is a five fold increase in two years.

The only request of this type that was not granted was withdrawn from consideration because utilities could not be satisfactorily arranged. In this instance, the 51-acre tract, situated on Gayton Road, remained assessed at the same value.

A to R-2A: Today the most popular designation for new subdivisions is the R-2A District. This district requires a 65 foot

width lot with 10,000 square feet minimum area. Consequently, large tracts are requested to be zoned this designation. The smallest tract requested was 24 acres. Requests ranged up to 230 acres. The 230 acre request on Williamsburg Road was withdrawn after a month's delay. The Commission allowed the withdrawal, noting that it would not have recommended the request because the density proposed for the area was not in keeping with the Land Use Plan. Roads, schools, and other County facilities would have been overburdened.

Of the seven requests submitted, the only one that was denied was a request to use the R-2A District as a buffer zone between a proposed apartment project and the West Sandston Subdivision. Many residents of the area opposed the project. The Planning Commission opposed the request on the grounds of nonconformance to the Land Use Plan. The value of the land, nonetheless, tripled as the tract in question was later rezoned for business use.

A to R-3: As noted previously, most requests for R-3 designation are smaller in size because they are in more established neighborhoods. Five requests of this type appeared before the Boards, all of which were approved. These requests resulted in a general raising of assessments on the affected properties.

A to R-4: During the entire period, there were only two requests to rezone to the R-4 Residential District. This classification was the most frequently sought district in the previous period. The infrequent seeking of this classification reflects the upgrading of housing that has occurred in the last decade. One of the two requests was for an

extension of a present subdivision involving about five acres. The subsequent approval of the request resulted in a doubling of its assessed value. Of all agricultural to residential requests, 82% were recommended by the Planning Commission, while the Board of Supervisors granted 85%. Less than 1/3 of the requests were presented by the applicant. This compares with over 2/3 two decades ago. Interest shown in this type request increased sharply, as over 1/4 of the cases had some opposition. This compares with only a 3% objection rate during the last period.

A to B: Agricultural to business requests numbered 30 in this six year span. Over 1/2 the requests were for the B-1 District. Of 16 requests, only four were approved. The low rate of approval is due to the spot zoning tendency of the requests. Most requests were not incorporated in the Land Use Plan. Since most requests were located near residential districts, 1/2 the petitions met considerable opposition. An attempt to build a general store on two acres near Mountain Road met opposition from adjoining land owners. The Commission denied the request as it felt that granting it would constitute spot zoning. Over a four year period, however, the land increased from an assessed value of \$200 to \$480, as a result of general development in the area.

Requests for zoning to B-2 Business from agriculture were approved as long as they conformed to the Land Use Plan. Only one of five requests was not recommended by the Planning Commission. The denied request was for the establishment of a funeral home at a proposed highway interchange. This request conflicted with the Land Use Plan.

Furthermore, there were pre-zoned tracts available for this establishment a short distance away. The assessed value remained unchanged.

There were nine requests to zone agricultural land to B-3 General Business Districts. While the Planning Commission recommended only two requests, the Board of Supervisors granted five. Tracts involved averaged 10 acres.

An attempt to rezone eight acres of agricultural land to B-3 Business on West Broad Street was not recommended by the Planning Commission because 150 acres nearby, already zoned B-3 was vacant. The applicant stated that he had several interested parties for the site, if it were rezoned. Nevertheless, the Board of Supervisors granted the request. As a result, assessed value of the tract increased from \$12,640 to \$13,820 in a year.

A request to rezone a two-acre tract to establish a parts supply store on West Broad Street was recommended by the Commission despite the fact that the area was not designated for such use by the Land Use Plan. The Commission justified its decision by saying the need for this type establishment was shown. After approval by the Board of Supervisors, its value increased from \$1,880 to \$2,460 in one year.

During the period, the Planning Commission recommended 37% of all agricultural to business requests. The Board of Supervisors, however, approved 53% of the requests it heard. During the last period, the ratio between Boards was one-to-one. Less than 1/4 of the requests were presented by the applicant. This is a marked drop from 60% in the Post-War decade. However, almost 1/2 (43%) the requests had opposition at the first public hearing.

A to M: There were nine attempts to zone directly from an agricultural to an industrial district. Six requests were advocated by the Planning Commission, while the Board of Supervisors granted seven. Acreage involved was, with few exceptions, considerable. Most large requests were for the building of sand and gravel processing plants in the eastern part of the County. When no opposition appeared, the Planning Commission recommended these changes because it felt this operation was needed. However, where residents arose to protest the proposed use, the Planning Commission denied the requests. Civic associations have been especially effective in blocking proposed gravel crushing and washing operations. Where these zoning requests were denied, land was affected little in value because mining, but not crushing, operations could be conducted in an agricultural district with a use permit.

R to R-5: The most controversial cases since the enactment of the Zoning Ordinance in 1933, involved the R-5 General Residence District. The last multiple housing construction boom had been in the late 1920's. Consequently, by the end of the 1950's most multiple family housing was 30 years old. With the slowing of single residence construction, developers throughout the country began to focus their attention on this long neglected segment of the market.

The apartment house boom came to Richmond late. The brunt of the apartment house onslaught was taken by Henrico County, rather than the City of Richmond. The first modern, high-rise apartment house in the Metropolitan area in 30 years was built in 1960, west of the City Limits.

This high-rise structure is still the only building of such height in the County. Most apartment houses in suburban areas, however, are of the campus type. Spread over acres of landscaped lawn, they seldom rise over three stories high. It was this type of apartment house for which zoning reclassification was requested.

In the 1960 Ordinance, the R-5 General Residence District was created for multi-family dwellings. Any structure housing more than two families was required to be in this district. However, there was little vacant land in this category. Consequently, tracts had to be rezoned before apartments were built. Since building expensive apartments in business or industrial areas was not economically feasible, developers sought the rezoning of residential areas for apartment use. It would be difficult to find renters willing to pay over \$100 a month to reside next to a freight yard.

Most County residents, having fled the City in search of more living area, strenuously objected to these structures. Civic associations and other interest groups banded together to fight apartment developments. Attacking both the type of structures and the type of people who inhabit them, residents fought throughout the early 1960's.

There were 42 requests to rezone residential districts to the R-5 Residential District during the six-year span through 1965. All but three requests were from a higher use than the R-2A Residential District, with the vast majority of requests coming from the R-3 District. The Planning Commission recommended 1/3 of these requests, while the Board of Supervisors granted about 1/2. This is quite a gap between decisions on

such a controversial issue. The intensity of the controversy was greatest in Tuckahoe District. In the 1963 election of the Board of Supervisors, the incumbent failed to be reelected. The main reason given for his defeat was his unpopular stands on apartment house redistricting cases. If this was the case, the question of zoning had enough influence on the electorate to fail to reelect the Supervisor.

In a late 1963 case, a prominent builder sought the rezoning of 36 acres of R-3 Residential land west of Ridge Road. "The need for this type of housing is urgently apparent," were the words of a noted Richmond attorney presenting the case for the applicant. The Planning Commission, noting that the request was far out of line with the Land Use Plan denied it. The Board of Supervisors, within two months approved the request. Today there are acres of apartments renting for under \$80 a month on this tract. After rezoning, the applicant sold a fraction of the tract for twice its prior value.

These apartments, like so many others in the area, are difficult to rent because of an excessive number of them. The Planning Staff made a study in 1963, and came to the conclusion that there were more than enough apartments already constructed in the Far West End. Yet, the Board of Supervisors continued to go against the recommendations of the Planning Commission and permitted additional construction.

Hospitals, office buildings and medical centers were also listed as conditional permitted uses in this district. In 1963, an unopposed request was granted to build a medical center on Monument Avenue. The assessment increased that same year from \$4,600 to \$6,880. Within a year

a medical center with an assessed value of \$123,200 was built on the premises.

Of 42 requests presented, the Planning Commission recommended 16, while the Board of Supervisors granted 21. Interest shown increased markedly over previous periods. Over 2/3 of the cases developed some type of opposition. The fierceness of the battles is borne out by the fact that 90% of all cases were presented by representatives of the applicants.

The remaining residential cases seem anticlimactic in comparison. There were two intraresidential requests that did not involve the R-5 District. Both were requests to rezone an R-3 District to an R-2A Residential District. Both requests were routinely approved. One was brought before the Commission by a Tuckahoe civic group, who were requesting the upgrading of their subdivision. Since there was no objection and no conflict with the Land Use Plan, the request was granted.

R to B: Residential to business requests were frequently heard. There were 45 such requests, of which only 14 were recommended by the Planning Commission. However, 22 were granted by the Board of Supervisors. Anticipating opposition, the applicant presented his own case only 12% of the time. In over 1/2 the requests, opposition appeared.

One-third of the requests were for rezoning from an R-3 District to a B-1 Neighborhood Business District. Of 15 requests only four were recommended by the Planning Commission, while five were granted by the Board of Supervisors. These tracts for the most part were small in size,

seldom exceeding two acres. The smaller sites were usually for proposed service station facilities. One request in the Ridge Road vicinity aroused civic associations. An oil company proposed a two-acre site be rezoned for B-1 Business so that a service station might be constructed, despite the fact that two such facilities of major oil companies remained constantly vacant within one mile of the proposed station. Cases like this are not uncommon. This case was quickly denied by both Boards. A great number of requests like this one make the approval rate for this class abnormally low.

Requests from residential to higher classified business districts were not as numerous. An attempt to rezone a tract to B-2 next to a County fire station in Tuckahoe District was not recommended by the Planning Commission after a civic association opposed the change. However, the Board of Supervisors approved this request. The assessed value of the one-acre plot increased from \$580 to \$4,000 in one year. A major oil company leases the site for a service station.

R to M: There were 13 requests to rezone residential areas to industrial districts. All were for rezoning to a M-1 Light Industrial District. Nine requests were recommended to the Board of Supervisors, who in turn granted 12. Three lots located in Nine Akers Subdivision were requested to be changed from a R-3 Residential District to a M-1 Industrial District. The tract in question was across the street from an existing industrial area, leading the applicant to desire the construction of warehouses. The Planning Commission denied the request because it would affect adjoining property adversely. The Board of

Supervisors, however, approved the request. As a result, the applicant's land, assessed at \$600 before the rezoning, was reassessed at \$1,920, despite the fact that he removed three houses from the lots.

A similar request of nine acres bordering the RF&P railroad tracks in Brookland Magisterial District was approved by the Planning Commission because it fell within the guidelines set by the Land Use Plan. Assessed value went from \$3,480 in 1961, to \$8,860 in 1962, to its 1965 assessed value of over \$28,000. Improvements have yet to be made on the site.

A request in early 1965, involving a national corporation, led to another difference of opinion between the two Boards. The corporation wished to move across the road from its present site into an R-4 District. The Planning Commission, not knowing how to act, conducted a study of the situation in the area. The study pointed out that there was enough industrially zoned land in the vicinity and the granting of this request would seriously affect neighboring residential areas. The Planning Commission thus recommended denial. The Board of Supervisors, however, rejected the recommendation and granted the request. The three-acre tract in question increased from an assessed value of \$370 to \$9,060.

R to A: Again in this period there were a few requests to revert to less intensive uses. There were four requests to rezone residential tracts to an agricultural use. Only two were approved by both bodies. One request, by an old age home, to rezone a R-3 District to an Agricultural District was granted. This request was necessary because an old age home is not a permitted use in a R-3 District. The Planning Commission felt the rezoning of this 15-acre tract would "best protect

the adjoining properties." Because of the nature of the request, assessed value of the property was left unchanged.

Another request, also for the purpose of establishing a nursing home, was rejected and withdrawn. In this instance, Tuckahoe civic associations objected because they feared an adverse effect on the value of neighboring property. The Planning Commission rejected the proposal, saying it was not compatible with the Land Use Plan.

B: Requests to rezone business districts were again few and scattered. Of 16 requests, 10 were petitions to rezone from a more restrictive use to a less restrictive one. Six requests were from the B-1 to the B-3 Business District. The Planning Commission recommended four requests, while the Board of Supervisors approved five. One such three-acre request on Broad Street was not recommended by the Planning Commission when the applicant refused to state why he wanted the B-3 designation. The tract had been zoned for business since 1955, but no development had taken place. Nonetheless, the Board of Supervisors granted the request. As a result, assessed value almost tripled in two years.

The Planning Commission will make reasonable deviations from the Land Use Plan. In 1960, a proprietor of a Highland Springs dry cleaning establishment requested rezoning of a B-1 District so he might establish another outlet. When the applicant showed the need for such a service, the Planning Commission modified his request. Instead of the B-3 classification which he requested, the tract was recommended to be zoned a B-2 District. The Board of Supervisors approved this request as amended.

The property increased in assessed value from \$1,860 to \$2,200, one year later.

A request by a Lakeside resident to rezone from B-2 to B-3 for the purpose of operating a drive-in restaurant was rejected by both Boards. The site had been a drive-in restaurant operated as a nonconforming use. However, after it had been vacant for a year, it lost its nonconforming status. This was denied because the Planning Commission felt if a case of this type were approved it would set a poor precedent and would constitute spot zoning. As a result of the denial, assessed value has remained unchanged since 1960.

There were three requests for business to residence rezoning. Although all three were advocated by the Planning Commission, the Board of Supervisors granted only two. In one case the rezoning of a four-acre tract from a B-1 District to a R-5 District resulted in a slightly downward reassessment. Yet in another request of the same type, the granting resulted in a doubling of the assessed value on a nine-acre tract.

There were two requests to rezone a B-3 General Business District to an agricultural district. One request, of less than an acre, was made to enable the applicant to build a house for himself on the lot.

These miscellaneous business rezoning requests were approved by both bodies 83% of the time. Almost 90% of the requests were presented by lawyers. At the same time, only 10% were opposed by anyone at the public hearing.

M: There were only eight requests to rezone industrial districts in this six-year span. Four requested rezoning from a M-1 to a M-2 classification. The Planning Commission denied three requests, while the Board of Supervisors denied only one. One request, in Commerce Acres, was denied because the Commission felt this request would adversely affect surrounding properties. The Board of Supervisors again saw differently and rezoned the property. The value of the property increased from \$4,000 to \$7,000, despite the fact that no improvements had been made.

A request to rezone 16 acres on the Hanover County line met considerable adverse neighborhood response. Seeing that they had little chance of receiving this request, the applicants changed their request to an R-5 Residential District, which was approved by both Boards.

One controversial issue, which turned out well, was a 155-acre request from an agricultural to a M-3 Heavy Industrial District. The creation of a drag strip next to Byrd Airport, was recommended in a split decision by the Planning Commission. This tract was justified by the Commission as appropriate for such use because of its proximity to the Airport. After being denied once by the Board of Supervisors, the request was later approved. Assessed value has increased from \$1,520, before the request to \$22,200, two years after the request was granted.

Only 14% of industrial requests were presented by the applicant. Because of the drastic change in use, this is understandable. Understandable also is the great amount of objection raised to the proposals. Over 62% were objected to. This is a tremendous increase over the last period, when only 20% had any opposition.

Figure 4. Map of Henrico County with Zoning Districts : May, 1966.

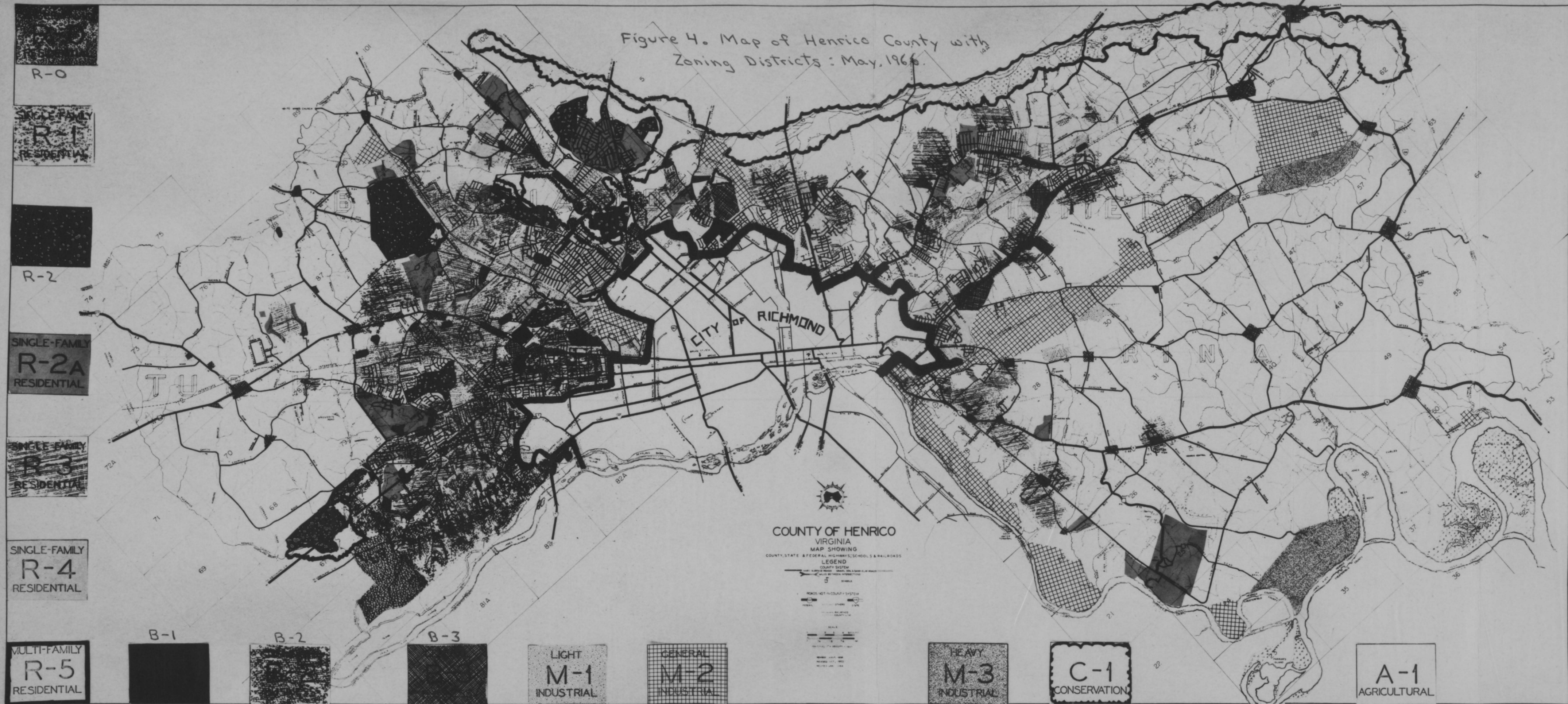


Table 17. Analysis of Zoning Requests: 1960-1965

Type of zoning request	% of total requests	% approved by adv. boa.	% approved by B. Sup.	% presented by applicant	% no int. shown	% approved pres. by applic.	% approved no int. shown	% approved with opp.
R to R	4.9	71.4	71.4	16.7	80.0			
R-3 to R-4, R-5	25.6	35.1	48.6	10.8	36.1			
R to B	31.2	31.1	48.9	12.2	47.6			
R to all other	11.8	64.7	82.4	7.1	66.7			
B to B	7.6	72.7	81.8	10.0	90.0			
B to all other	4.2	83.3	83.3					
M to all	5.6	62.5	87.5	14.3	87.5			
A to R	2.8	81.5	85.2	31.6	72.0			
A to B	3.5	36.7	53.3	23.1	57.7			
Other	2.8	85.3	93.7	50.3	54.7			
Total	100.0	54.4	64.5	16.7	57.2	68.0	73.3	30.4

Magisterial District	% of 1960 population	% of requests
Brookland	33.1	36.1
Fairfield	26.8	24.2
Tuckahoe	32.7	36.1
Varina	7.4	3.6

* Insignificant data.

There were three requests to rezone from an M-3 Heavy Industrial District to an agricultural district. One such request, in Varina District involving 37 acres, was granted only when all property owners in the area consented. The Planning Commission, in rendering its recommendation, noted the request was not in keeping with the Land Use Plan. The reclassification of the land resulted in a slight downward reassessment. Before the 1960 rezoning, the tract was assessed at \$900. Assessment was reduced to \$700 after rezoning.

Another similar request was granted a property owner along the James River in Varina District. The applicant wished to construct a large home overlooking the River. Under the M-3 classification no residences are allowed, so a reclassification was necessary. This request was part of a 1,225-acre tract. Since all land surrounding the requested area was agricultural, both bodies approved the request. As most of these requests in no way affected inhabited areas, 90% were unopposed. Representatives of the corporations involved handled over 85% of the hearings before the Planning Commission.

Comparison of Periods

In the third period, trends that began in the second period both continued and accelerated. As the Planning Commission, with the Planning Administrator as its secretary, relied more upon the Land Use Plan, they recommended denial an ever increasing number of times. In the last period, the Planning Commission recommended 1/2 or 52% of all cases it heard. In addition to a relatively strict adherence to the

Land Use Plan, the Commission was influenced by the Planning Staff. The Staff, working as professional planners, would be expected to require stronger justification for changes in the master plan.

This recommendation level is down sharply from 78% in the previous period, when public hearings were held by the Board of Zoning Appeals and the Zoning Commission. In the first period, the Board of Zoning Appeals recommended 70% of the cases it heard.

While the advisory boards became more stringent, the opposite can be said of the Board of Supervisors. During the first period, the Board was more conservative than the Board of Zoning Appeals, as it granted only 57% of the cases it heard. This was considerably below the 70% recommended to it. During the Post-War period, the percentage of requests approved by both bodies were almost identical. The advisory board and the Board of Supervisors approved 78% and 79% of requests respectively. While there were some reversals, this degree of adherence was an accomplishment.

However, in the last six years the pendulum has swung again. The Board of Supervisors has granted far more requests than were recommended to it. While only 1/2 the requests were recommended by the Planning Commission, the Board of Supervisors granted 65%. Unfortunately, most of the cases in which the Board went against the Commission's recommendations were controversial requests.

The relative rates of approval were not the only things that changed over three decades of zoning. The types of requests broadened as the use districts increased in number. Through World War II, two types of

requests predominated: residential to business and agricultural to business.

With the end of the War and the resulting Post-War expansion, the great bulk of requests were to rezone agricultural land into residential and business districts. With the creation of multiple residential, business, and industrial districts, a tendency to rezone to a less restrictive use within the same classification began. This trend continued into the 1960's. With the slowing of growth, the number of requests also slowed. The rezoning of agricultural land was no longer the predominant request. Instead, the major shift seemed to be from residential districts.

The manner in which rezoning requests have been presented has changed markedly also. Over 3/4 of all applicants presented their own case before World War II. This percentage dipped to slightly over 1/2 (55%) in the Post-War period, as requests became both larger in value and in size. However, since 1960, only 1/6 (17%) of all applicants presented their own request. Applicants who have presented their own requests over the three periods have been successful 71%, 77% and 68% in each period respectively. Applicants have been at least as successful as the average in each period. In the last six years, their 68% average of success was far greater than the 54% that were recommended. The success of representatives presenting zoning requests has varied from a successful percentage of 79% in the Post-War period to a low of 53% since 1960.

Interest shown in requests over time has varied considerably. In the Pre-War period, 1/4 (26%) of requests met some opposition at the public hearing. After the War, public opposition waned so that only 7% were opposed. This is mostly because of the noncontroversial nature of the great majority of requests. Public opposition increased rather sharply in the latest period, as over 42% of requests heard were opposed. As the density of the population increased, property owners became more concerned with further proposed changes.

Where no interest by the public was shown, the vast majority of the requests were approved. This rate has changed little over time. For instance, in the first period 80% of all requests were recommended when no opposition appeared. This increased to 82% in the second period. In the latest period, reflecting an overall decline in requests recommended, 73% were recommended if there was no opposition.

When citizens have raised their voice in opposition, the advisory boards have usually heeded their wishes. In the Pre-War period, only 44% of requests opposed by citizens were recommended. This decreased to only 33% in the Post-War period, and to only 30% in the latest period. This is significant. Citizens or groups of citizens can have a profound effect on the outcome of a zoning request. They are not powerless if they let their wishes be known.

When compared to percent of population, the percentage of requests generated by each district was very close to what would be expected. There were only two major deviations. Varina District, because of large tracts of wooded and open land and because ownership is concentrated

in a few hands, has had consistently fewer zoning requests than the population would otherwise justify. The second deviation was the number of requests from the Tuckahoe District immediately after the War. The abnormally large number of requests were preparatory to the rapid population expansion of the area in the 1950's.

If time required to render an advisory decision is a measure of proficiency then the advisory boards are becoming more efficient. In the last six years of observation, 82% of zoning requests were decided on the day of the first public hearing. This is up from 74% in the second period, and 70% in the initial period. Ten percent of all decisions were rendered in one month's time in the latest period, while over 20% of the decisions required one month to decide in the 1950's. This compares with 17% in the first period. Only 1% of all cases heard in this last period required over three months. This compares with 2% in the second period and over 4% in the initial period.

The Board of Supervisors has shown a similar, but not as marked improvement. Since 1960, the Board decided over 85% of its cases at the initial hearing. This is down slightly from the 88% level of the 1950's, but is still far ahead of the 71% level in the Pre-War period. Another 9% of the decisions were rendered in one month in the latest period. This is up from the 8% level in the Post-War period, but again is considerably less than the 23% level of the initial period.

Requests requiring more than two months to decide are at an all time low. Currently only .7% of all requests take longer than two months to decide. This is down from 2% and 1% in previous periods.

Rezoning from a more restrictive to a less restrictive use has had a profound effect upon the value of tracts involved. Tracts rezoned from single residence districts to the R-5 General Residence District since 1960, averaged a 117% increase in value within two years after rezoning. Land transferred from a residential to a business use recorded a similar increase. The greatest increase in value was recorded by tracts which were rezoned from residential to industrial districts.

Parcels taken out of agricultural designations also showed great increases. Property rezoned from agricultural to residential use showed a 128% increase in value after reassessment. Tracts zoned into business from agriculture showed an even greater increase, 135%.

Rezoning from an intensive use to a more extensive use did not reflect itself as would have been expected in assessed value. There was a definite reluctance to lower real estate assessments despite rezoning. All periods of study are compared in Table 18.

Table 18. Analysis of Zoning Requests Compared: 1933-1965

Type of zoning request	Period I			Period II			Period III		
	% Appr. by Adv. Board	% Appr. by B. Sup.	% of requests	% Appr. by Adv. Board	% Appr. by B. Sup.	% of requests	% Appr. by Adv. Board	% Appr. by B. Sup.	% of requests
R to R				66.7	66.7	2.8	71.4	71.4	4.9
R-3, R-4 to R-5							35.1	48.6	25.6
R to B	79.2	66.7	34.3	68.1	68.1	14.4	31.1	48.9	31.2
R to all other				55.6	55.6	2.8	64.7	82.4	11.8
B to B				*	*	3.4	72.7	81.8	7.6
B to all other				*	*	1.2	83.3	83.3	4.2
M to all other				*	*	1.2	62.5	87.5	5.6
A to R, R-0, R-1, R-2				86.5	81.1	4.9	81.5	85.2	2.8
A to R-2A				91.7	90.8	14.4			
A to R-3				86.2	89.6	3.7			
A to R-4, R-4A, R-S				86.1	89.2	20.8			
A to B	61.1	52.8	51.4	67.5	68.1	25.5	36.7	53.3	3.5
A to all other				55.6	66.7	4.9	81.8	90.9	.7
Other	80.0	50.0	14.3				100.0	100.0	2.1
Total	70%	57%		77.5%	78.6%		54.4%	64.5%	

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* Insignificant data.

Table 18. (continued)

Type of zoning request	Period I		Period II		Period III	
	% presented by applic.	% no int. shown	% presented by applic.	% no int. shown	% presented by applic.	% no int. shown
R to R			11.1*	87.5	16.7*	80.0*
R-3, R-4 to R-5					10.8	36.1
R to B	78.3	70.8	47.9	78.3	12.2	47.6
R to all other			25.0*	100.*	7.1	66.7
B to B			33.3*	75.*	10.0	90.
B to all other	*	*	*	50.*	*	*
M to all other	*	*	75.0*	100.*	14.3	87.5*
A to R, R-0, R-1, R-2	66.7*	66.7*	42.3	97.1	31.6	72.0
A to R-2A			42.6	98.1		
A to R-3			31.0	96.4		
A to R-4, R-4A, R-5			78.3	98.7		
A to B	82.8	77.1	59.6	91.9	23.1	57.7
A to all other	75.0*	100.*	45.7	80.0	14.3	37.5
Other					66.7*	66.7*
Total	75.4%	73.9%	54.9%	93.0%	16.7%	57.2%

* Insignificant data.

Table 18. (continued)

Magisterial District	Period I		Period II		Period III	
	% of 1940 pop.	% of requests	% of 1950 pop.	% of requests	% of 1960 pop.	% of requests
Brookland	32.5	34.5	36.0	32.6	33.1	36.1
Fairfield	27.8	34.5	32.8	28.2	26.8	24.2
Tuckahoe	26.5	27.6	19.3	30.7	32.7	36.1
Varina	13.2	3.4	11.9	8.5	7.4	3.6
Presented by		% approved		% approved		% approved
Applicant		70.9		77.2		68.0
Representative		71.4		78.8		52.8
Interest shown						
No interest		80.4		82.1		73.3
Opposition		44.4		33.3		30.4

USE PERMIT REQUESTS

The granting of special exceptions, known as conditional use permits, is being increasingly relied upon by Henrico County. Rather than blanketly permitting a specific use in a district, the use is permitted provided the Board of Zoning Appeals approves of the specific proposal. This requirement gives the County added measure of protection before the establishment of a questionable use in a particular district. The increasing reliance by the county on conditional permits is evidenced by the 491 requests made in the last six years.

The Board of Zoning Appeals has had the power to grant special permits since its creation in 1933. Since 1933, any industry that emitted any form of fumes could not establish itself anywhere in the County without first obtaining a use permit. Permits were also required for dance halls, recreation areas, and neighborhood service stations. Through later amendments, the Board was given discretionary power to permit office buildings in residential districts. In 1944, the Board was given emergency powers to issue temporary permits allowing business and industry to operate in industrial areas for the duration of the War.

Through 1945, 15 use permits had been requested but only four were granted. A great number of recreation and dance hall requests swelled the denied list. These dance hall requests were in the Fairfield district, involving both colored and white neighborhoods. United opposition by the clergy was present at these requests because of bad experiences with such night spots in the 1930's. For the entire period, one of four

requests met opposition. Because of the nature of the cases, only three requests were presented by the applicants personally.

With revisions in the Ordinance in 1945 and 1953, the Board was given further discretionary powers in the granting of permits. The 1953 Ordinance gave the Board the power to include in any business or industrial district any use it thought appropriate. Over 200 use permit requests were heard from 1953 to 1960. Of these requests, 68% were granted.

The number of requests swelled in the late 1950's as a result of the passage of additional amendments. The most important of these amendments concerned excavating and mining. The mining of materials, beginning in December, 1956, required the granting of a permit from the Board of Zoning Appeals. Strict requirements as to the actual mining and reclamation of the affected lands was made mandatory. Mining permits were granted conditionally for a period of one year, after which time they had to be renewed. Adherence to the regulations by the corporations that mine the area has resulted in little outright conflict.

The greatest controversies in the issuing of use permits were over community or civic association swimming pools and recreational areas. By the late 1950's every developer was including a swimming pool in his subdivision as an added inducement to purchase. These pools were located within the subdivision near other people's homes. When the civic association sought a permit to operate a pool, adjacent property owners objected. Both sides were invariably represented by attorneys, with resulting long and heated public hearings.

One 1957 request for a swimming pool in Tuckahoe District brought 98 persons to the public hearing. Of these, 42 were in favor and 56 were against the request. Objections were based on increased noise and traffic with a resulting devaluation of nearby property. Despite strenuous objections, this type of request was invariably granted. However, rigid use restrictions were placed on recreational areas, with the understanding that noncompliance would result in a revocation of the permit. This was not a bluff, for the Board on more than one occasion has revoked recreational use permits because of violations of the conditions set forth.

In comparison to heat generated, by recreational requests other cases during this period were mild. Requests varied from the issuing of a use permit to operate a turkey shoot, to the denial of a permit to operate an indoor tennis arena in an exclusive R-0 Residential District.

A provision of the 1945 Ordinance prohibiting house trailers had its first tests in this period. The Board steadfastly refused to grant permits to live in trailers. Most requests came from the Brookland and Fairfield Districts.

Use permits for any reasonable activity were liberally granted. Seventy-eight percent of use permit requests were presented by the applicant, while only 10% were objected to at the public hearing.

As mentioned previously, the 1960 Ordinance was rewritten to allow for: principal uses, permitted uses by special exception, and accessory uses. Permitted uses by special exception required approval by the Board of Zoning Appeals. Special exceptions were becoming more of a rule than an exception. Use permit or special exception requests

outnumbered variance requests 491 to 454 in the first six years of the 1960's. Special exceptions were granted in 78% of the requests. About 3/4 of all use permit requests were unopposed.

Size of area involved varied according to the type of request. Mining and excavating requests were usually in excess of 100 acres, although the entire tracts were not involved in the mining operation. Most people appearing at the public hearings were there to ask questions, rather than to oppose the requests. For example, in a 1960 request in Fairfield District adjacent property owners questioned the effect that excavation of gravel would have on their wells and sewer systems.

Similar questions were raised at a 1965 request on a 60 acre tract in Varina District. Adjacent residents complained that their wells had been adversely affected by recent excavations. In spite of the fact that a geologist for the Commonwealth of Virginia said this was impossible, the applicant, a large materials corporation, agreed to dig new wells for the five doubting adjacent landowners. The request was granted.

A frequently requested use permit was for parking a trailer other than in a trailer park. The Board consistently denied these requests paying little attention to the hard-luck stories they heard. One 1964 request in the Fairfield District was typical. A young married couple requested a permit to live for six months in a trailer parked on a tract they owned in a R-2A Residential District. When the husband finished school they intended to construct a home on the property. Despite the fact that the couple had just paid \$4400. for the trailer, the Board of

Zoning Appeals denied the case because this was neither an emergency or temporary use. This line of reasoning was used throughout the period with regard to trailer permits.

The number of use permits requested was swelled by the necessity of issuing a use permit for all service stations in a B-1 Business District. These requests were invariably granted with special conditions attached to the permits. For instance, no outside display racks were permitted and only light automotive repair work could be conducted.

Other requests for use permits varied greatly. Requests for such odd establishments as "Par-Three" Golf Courses, alcoholic hospitals, turkey shoots, swimming pools, and tire recapping facilities were heard in varying numbers during this six year span.

The issuance of a use permit rarely affected the value of a property to a great extent. When a tract is rezoned, the assessment at the time of rezoning takes into account all principal or conditional uses allowed in the rezoned district. This is not true, however, if the use permit granted is a unique permit granting the holder a situation where a monopolistic element exists. For instance, a permit which allowed a Washington developer to build a 13-story apartment house in the County resulted in a further raising of assessments. The use permit gave the developer a degree of monopolistic control in that he had the only such structure in the County. With the passage of a 1966 amendment to the Ordinance, the monopolistic element of his position was weakened. His assessment has been reduced accordingly.

There is one significant fact in this example. The power to grant use permits is the power to grant monopoly. Through the granting of conditional permits, this quasi-judicial body has considerable latent power.

OBSERVATIONS

Flexibility of the Ordinance

This study has shown the great flexibility of a zoning ordinance. Analysis, either by periods or collectively, substantiates the acceptance of the hypothesis that zoning regulations are modified by county officials to permit orderly development.

The Ordinance until the end of World War II was quite broad. Pressures brought to bear on the Ordinance were light. Yet the Ordinance was flexible. Witness the creation of an airport district when the need became apparent.

After the War, the Ordinance expanded rapidly to meet the needs of an expanding population. The Ordinance became highly flexible as increased population pressures required a tripling of the number of use districts and a substantial strengthening of building regulations.

With a slowing of population growth in the 1960's, changes in the Ordinance also slowed. However, the Ordinance did not stand still. It solidified and consolidated. Voids were filled. In short, the Ordinance became a mature instrument of land use policy.

Legislation Through Ordinance Decision

Rather than legislating against certain uses, the County relies on the Zoning Ordinance to hinder effectively the creation of unwanted uses. Legislation through Ordinance decision, if the Ordinance has indeed been

used in this manner, raises some interesting legal questions. An example is the automobile graveyard. As currently permitted in the Ordinance, an automobile graveyard may be established with a special use permit in a M-3 Heavy Industrial District. Once the site for a proposed junk yard has been selected, it must not be within 500 feet of any public street or road. It must be screened effectively from all public roads and in addition be surrounded by a "solid and sightly" enclosure not less than eight feet high. Within the enclosure nothing may be stored over six feet high. After these conditions have been met, a use permit must be obtained from the Board of Zoning Appeals. Practically speaking, such a use permit is never granted. Other not so offensive uses, such as the creation of trailer parks and amusement parks, have rather strict regulations with which they must comply.

The requiring of more use permits from the Board of Zoning Appeals further restricts the Ordinance. While a use may be listed as a "conditional use, permitted by special exception," the requirement of a use permit, for practical purposes restricts that use from the district. The Ordinance, through requiring of use permits, is more restrictive than may appear at first glance.

No one wants either an automobile graveyard or trailer park near him. The public asked for these restrictions and got them. However, such a restrictive ordinance tends to force these less desirable, but legal uses into neighboring counties, where there is either no zoning ordinance or a weaker one. The number of automobile graveyards in Hanover County, which borders Henrico County on the north, is a witness to this fact.

As more counties enact ordinances, what will become of these uses? These uses are a part of our society. The automobile destruction rate is near the production rate of nine million vehicles a year. Such used part and auto graveyard establishments will necessarily increase in number. The zoning ordinance can not be used as a tool to legislate against such uses.

Junk yards do not stay in business from junk. Their profit is made from the sale of used auto parts. Used parts are purchased only if they can be purchased conveniently and at a distinct price advantage. If automobile graveyards are permitted only in out-of-the-way locations and are further handicapped by regulations, which are both difficult and expensive to comply with, then their price advantage and convenience are negated. Zoning junk yards out of the county simply shifts, not solves, the problem.

Today the crux of the problem is that scrap metal is not worth the cost of handling. It costs a wrecking yard more to take a stripped auto to a scrap iron dealer than the metal is worth. Thus, it is cheaper to let the stripped hulk sit and rust. A possible way to alleviate this situation, though quite expensive, would be to require a baling or scrap-ping machine on the premises before a use permit could be issued.

Another possibility would be limiting the size of auto graveyards. If inventory were to be kept at the same level, then the rate of turnover must increase. This would require the car to be stripped immediately and the parts stored. However, this would require additional structures to house the dismantled parts, subsequently raising costs.

A NEW PLANNING COMMISSION

Today three separate groups work with the amending of the Zoning Ordinance: the Planning Staff, the Planning Commission and the Board of Supervisors. The Planning Staff, the only professionals involved, generally have the least to say and carry the least weight.

The Virginia statute requires that all amendments to the Zoning Ordinance be voted upon by the Board of Supervisors. A rezoning request, no matter how trivial in nature, involves a redrawing of district boundaries and so is considered an amendment to the Ordinance. Thus it must be acted upon by the Board of Supervisors. Currently half of the Board's time is consumed by rezoning requests. The greater the size or value of the requested change, the greater the pressure brought to bear on the Board of Supervisors. Some recent Board meetings concerning zoning have become heated verbal skirmishes.

To relieve these pressures and responsibilities from the Board of Supervisors, it is recommended that the enabling acts be changed to permit the Circuit Court of Virginia to appoint a five-member Planning Commission, who would serve in a manner similar to the Board of Zoning Appeals. The Planning Commission would hold an advertised public hearing on all rezoning requests, as it does today. However, its decision, like its counterpart, the Board of Zoning Appeals, would be final. Any appeal from the Commission's decision would lay in the Circuit Court.

The Planning Commission would hold its public hearing after an independent public hearing had been held by the Planning Staff. Currently,

the staff investigates every case and is represented at every meeting, so little additional work would be placed on them. The advantages of having the Staff hold a public hearing and give an advisory opinion are evident. For one thing, proponents and opponents of the change would be quizzed in a professional manner, by professionals. The Planning Staff, after its hearing, would issue an advisory opinion. With the advisory opinion in hand, the Planning Commission would then hold its hearing.

When creating the new Planning Commission, the legislators of the Commonwealth would have to determine what is an actual amendment to the zoning ordinance and what is merely a rezoning case. All bonafide amendments to the ordinance would still be the responsibility of the Board of Supervisors. The Planning Commission would assume the final public hearing on zoning requests from the Board of Supervisors. In this proposal the number of public hearings remain the same. The end result is the same, but the means of getting that result are hopefully more efficient and better thought through.

Relief From Enforcement and Public Education

Enforcement of a zoning ordinance is a never ending task. Once a man has been given a use permit, it is his to use with certain conditions. That these conditions are adhered to is the responsibility of the Planning Staff. If a minor violation has been noticed and the operator refuses to comply, the Planning Administrator takes the matter before the Board of Zoning Appeals. This requires additional time of an already overburdened

staff. Once before the Board, the violator inevitably says it was a misunderstanding and promises it will not happen again. A few months later the same thing often happens. This is both time consuming and ineffective. And these are only the violations that are detected.

Recently, however, the Board of Zoning Appeals and Planning Commission at the request of the Planning Staff, have been issuing use permits and approving layout plans in a manner so as to make it difficult for the receiver to violate the conditions.

For instance, until 1965, service stations were given lanes of 20 feet between the gasoline pumps and the grass islands that mark the edge of their property streetside. In these lanes was room for two cars. However, against the conditions of the use permit, service station operators would place tire racks, accessory racks, and even wrecker trucks in the lane nearest the street. These displays were unsightly and hazardous in that they restricted vision. Who was responsible? The oil company that received the use permit, the service station operator, or the owner of the property? Each one denied responsibility.

Such cases led the Planning Staff in circles. Today, the solution is to have this lane reduced from 20 to 12 feet. Now the operator has no choice. If he still chooses to place displays in this position, it is impossible to get to the gas pumps. Making a violation of the Ordinance physically impossible is one way to relieve the Planning Staff of one of their more time consuming tasks. However, this may be considered a negative approach.

A positive and better approach would be public education, both on the high school and adult education levels. A section on the role of zoning in the community could be inserted in high school government courses. On the adult level, the public media offer the best means to arouse interest. Newspapers offer an opportunity. Perhaps educational television, as it expands throughout Virginia, will be of the greatest help.

Citizens' Associations

Civic associations have been active since the Ordinance was first enacted. Most early major amendments to the Ordinance, such as the creation of multiple residential districts, were proposed by civic associations. Over time, however, their composition has changed. Today they are known as "citizen associations." Unlike their predecessors, they transcend subdivision lines, and thereby encompass a larger area and a larger population. Protection of existing property values within the community continues to be the avowed purpose for their creation and existence.

Wielding impressive numbers and power, the "new" associations strenuously object to virtually all major use change requests in the western part of the County. Pressures are exerted by such associations through influential members and mass protests. Funds are raised by the levying of membership dues. Chartered busses bring the associations' members to most public hearings.

The Cheswick "planned community" proposal, mentioned earlier, is an example. This use district had to be created before the Cheswick proposal itself could be considered. In this instance, there were two citizens'

associations, one for both the district and the specific proposal and the other group against both. Each group conducted its own vigorous campaign, distributing literature by mail and by person. Charges were made which led to countercharges. The truth was sometimes swept aside in the heat of the argument. First for the Planning Commission hearings, and later before the Board of Supervisors, both groups appeared en masse represented by prominent attorneys.

With the conclusion of a case, the associations generally have not disbanded. Instead, they have become increasingly more vocal in other areas of governmental concern within the County, even though these matters are far from the area which the associations profess to protect.

In zoning redistricting requests, citizens' associations pose as formidable opponents to the developers and corporations who seek major amendments to the Zoning Ordinance. As they become both greater in number and stature, their presence will be profoundly felt in not only zoning redistricting requests, but in all facets of County government.

The Double Standard Ordinance

A zoning ordinance can only be as good as the men who are entrusted to administer it. This has been the key reason for the success of the Henrico County Ordinance. The choice of the administrator of the ordinance, whether he be a professional planner or a county engineer, cannot be over emphasized. The man chosen for this position must be sufficiently strong that he cannot

be willfully manipulated by influential, interested parties. Similarly, members of the Planning Commission and Board of Zoning Appeals must be of sufficient strength to put the welfare of the county first. This also applies to the Board of Supervisors.

The impartiality of the boards and commissions in Henrico County is self apparent. The data consistently show that applicants fared better in presenting their own case, than did representatives of applicants. As mentioned previously, more, not less, was expected from developers and other professionals than from laymen.

With weak appointees and strong politicians at the helm, a zoning ordinance will in short time become two ordinances. One ordinance for most citizens will be strictly interpreted. The other will be for the well-to-do and influential. This second ordinance will be manipulated to the advantage of special interests. In the long run, a double standard ordinance is worth little.

Uniqueness of an Ordinance

No county or locality can copy another county's ordinance and expect it to succeed. This is because every locality has different problems and situations which are peculiar to it. If a rural county decided to avail itself of Henrico County's three decades of experience and copied Henrico's Ordinance, it would make a serious mistake. Such a restrictive ordinance would hinder, rather than help a county develop in an orderly manner.

Every county must conceive an ordinance suited to its particular needs. Over time an ordinance becomes more complex. A complex, highly restrictive ordinance cannot be transplanted like a tree. Henrico's Ordinance has sections devoted to its own particular needs. The rigid excavation restrictions and the new "planned neighborhood" district sections of the Ordinance are examples.

While the Ordinance itself cannot be copied successfully per se, others in search of a workable zoning ordinance can learn much from Henrico County's experiences. From the successful innovations and the unfortunate omissions, a useful tool of land use planning can be put into action.

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APPENDIX

Code of Virginia: Enabling Legislation

APPENDIX

CODE OF VIRGINIA: ENABLING LEGISLATION

Jurisdiction of Counties:

As authorized in the Code of Virginia, the governing body of any county may by ordinance divide the territory under its jurisdiction into districts of such number, shape, and size as it may deem necessary. In each district it may regulate:

- (1) The size, height, area, bulk, location, erection...razing and removal of structures.
- (2) The use of land, buildings and structures for agricultural, commercial, industrial, residential, and other specific uses.
- (3) The areas and dimensions of land, water and air space to be occupied by buildings, structures and variations thereof.
- (4) The excavation or mining of soil or other natural resources.

For the purpose of zoning, the governing body of a county has jurisdiction over all the unincorporated territory in the county; municipalities have jurisdiction over all of their incorporated area.

Purpose:

Zoning shall be for the general purpose of promoting the health, safety, or general welfare of the public.

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Code of Virginia 15. 1 - 436.

Ordinances should be designed to:

- (1) Provide for adequate light, air, convenience of access and safety from fire, flood, and other dangers.
- (2) To reduce and prevent congestion in the public streets.
- (3) To facilitate the creation of a convenient, attractive and harmonious community.
- (4) To expedite the provision of adequate police and fire protection, civil defense, transportation, water and sewage.
- (5) To protect historical areas of interest.
- (6) To protect against the overcrowding of land, or undue density which stretches the community's facilities to provide necessary services or the obstructing of light and air or the loss of life from fire, flood panic or other dangers.

Zoning Commission

Before a county may be zoned, in the absence of a planning commission, the local governing body must appoint a zoning commission consisting of between five and fifteen members, whose duty is to recommend the boundaries of the various use districts and the regulations to be enforced therein. Any zoning commission that is created, automatically exercises the duties of a planning commission and cannot be dissolved until a planning commission is created to succeed it.

Consideration in the Drawing of the Ordinance

Zoning ordinances and districts must be drawn with reasonable consideration for existing uses of property, the suitability of properties for

various uses, and the trends of growth or change. These trends and future needs of the community should be determined by population and economic studies. The requirements for schools, parks, and other public services must not be overlooked in the creation of districts. The conservation of properties and their values and the encouragement of the most appropriate uses of land is the goal in the creation of districts.

Amendments

Provision has been made for the repeal or amendment of zoning regulations as time requires.¹ When it becomes necessary in the public interest, the governing body may initiate such a change. A property owner may also petition his governing body for a change in the ordinance.

Board of Zoning Appeals

Whenever a property owner feels he has been wronged by the zoning ordinance and can get no satisfaction from the administrators of the ordinance, the Code provides for a Board of Zoning Appeals. This Board is composed of five local residents who are appointed by the circuit or corporation courts for a five year term, one position expiring per year. The members of the Appeals Board may hold no other public office in the locality except that one member may hold a position on the local planning board.

¹

Code of Virginia 15. 1 - 495.

The Board of Zoning Appeals must hear and decide upon appeals from the administration. It also has the power, upon appeal, in special cases to authorize a variance from the ordinance that will not be contrary to the public interest.

However, under no circumstances is the Board authorized to issue a variance unless strict application of the ordinance would produce an undue hardship on the petitioner. Furthermore, this undue hardship must not generally be shared by other properties in the same district similarly situated. Authorization of this variance must not be of substantial detriment to the character of adjoining property or the character of the district. All interpretations over uncertainty of the district maps are also heard and decided by the Board of Zoning Appeals. If the petitioner still feels he has received no relief, he may appeal the decision of the Board within thirty days to the circuit or corporation court.

Adoption of the Ordinance

Once a uniform proposed ordinance with district maps has been prepared by the commission, then at least one public hearing on the ordinance must be held. Upon completion of the proposed ordinance, the Commission must present it to the governing body together with its recommendations and appropriate explanatory materials. After having received the commission's report, but not before, the governing body may act as it sees fit concerning adoption of the zoning ordinance.

ABSTRACT

This study was undertaken as a beginning of an analysis of "zoning in action." Henrico County, Virginia, has had a rural zoning ordinance in force for over a third of a century. During this period, the County was transformed from a rural locality to an urban-suburban one.

The study had as one of its objectives the tracing of rural zoning in response to population growth in Henrico County. The study sought to probe the types of requests sought, the manner in which they were sought, and whether or not they were granted. The consequences of zoning on real estate values were also probed.

The study has shown how the initial, rather broad Ordinance has evolved in 35 years into a complex, quite restrictive ordinance. In 1933, there were four use districts. Today there are 16. Building regulations have been strengthened by the "beefing up" of older regulations and the addition of many new ones. As new problem uses have appeared, they have been incorporated into the Ordinance. Population pressures and the advent of unforeseen situations were responsible for most changes.

Variance requests have been similar since the inception of the Ordinance. Sideyard and setback requests have predominated. As the Ordinance has become more restrictive, other requests have become more frequent. The vast majority of requests continue to be granted. Public interest in variance requests is for the most part dormant. The granting of variance requests affect assessed real estate values significantly only if the variance renders the property useful, where previously it was not.

Zoning requests, over time, have changed markedly, however. Prior to urbanization of the County, most zoning requests were from an agricultural designation. Today agricultural requests trail business and residential requests in number. Most importantly, the ratio between zoning changes recommended by the advisory board and granted by the Board of Supervisors has changed. As requests have increased in size and in value, and as opposition has become more prevalent, professionals have dominated the presentation of requests. Rezoning of a tract to a more intensive use usually results in a doubling of its assessed value.