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# Zoning and Economic Development

*By Raymond J. Penn*

Over the years our extension agricultural policy workshops have been devoted almost exclusively to general price policies and programs — to the subject matter content and the educational methods involved.

Zoning is an instrument of government and is a non-price force for directing the use of resources. Because zoning is somewhat at variance with the usual subject matter of these workshops, and also because of late public interest in zoning has increased substantially, a few words of introduction are in order.

What is behind this recent interest in zoning? The reason, I think, is to be found in the new problems we are facing — problems of rapid technological change and the desire to speed the rate of economic development. We are searching for new ways to solve problems which are not entirely amenable to solution by our present methods.

We face two major problems:

1. Market price or price manipulation alone is not sufficient to bring about satisfactory adjustments in agriculture. The real problem in agriculture grows out of a combination of rapid changes in technology and a relatively inelastic demand for agricultural products. Production per agricultural worker has nearly doubled in the last fifteen years. But demand cannot be increased much faster than population increase (although this situation varies considerably among the different agricultural commodities). Changes in technology will continue, and the outlook for the next fifteen years is that agricultural production will increase faster than population and, hence, will continue to put pressure on agricultural prices.

Technological change in crop production has been taking place for some years but in the livestock industry and particularly in dairying it is just beginning. Halvorson<sup>1</sup> surveyed a representative sample of Wisconsin dairy farmers in 1955 on their milk production intentions in 1956 assuming no price change. Eighty-eight percent said they would produce as much or more milk in 1956 and half of these (44 percent) said they hoped to double their production. Attaining this increased production is more easily said than done. However, Wisconsin dairy production was up about 6 percent in the first five months of 1956. This is being accomplished with fewer farmers on the same

<sup>1</sup>Harlow Halvorson, "Wisconsin Dairy Farmers' Production Plans and Attitudes Toward Price Supports," mimeographed release, Dept. of Agricultural Economics, University of Wisconsin, 1955.

land and with about the same number of milk cows. Similar technological developments can be found throughout agriculture.

The problem, then, is to balance agricultural production with demand. The adjustments needed in agriculture are difficult, painful, and costly. Those who remain in agriculture must farm as well as they know how — more capital, more land, more specialization, etc. Some will have to leave agriculture altogether. Some of our young people will never begin farming at all. Others will seek part-time employment outside of agriculture.

The point here is that price manipulation alone is not an adequate directive force for the type of adjustments that must be made. Farmers and others realize this perhaps even better than economists. At any rate, there is a considerable increase in the interest for programs aimed specifically at the adjustments needed such as credit, vocational training, and employment services. Community development activities are being increased in the hope of increasing all employment opportunities, not just in agriculture—of improving use of all land, not just agricultural land. Zoning is being looked to as one device to encourage such development.

2. The nonagricultural needs for land and water resources are increasing very rapidly. Now one person in three lives in one of the ten largest metropolitan areas in the United States. We may expect the next one hundred million people in the United States to be oriented largely to nonagricultural employment. In many cases the increased demands for resources conflict with agricultural use, as is the case in residential subdivisions or a new highway through farm land. But many uses are complementary. This can, I think, be particularly true of use of land for recreation—a use which promises to demand much more attention in the future than we have given it to date.

Quite obviously the solutions to these kinds of problems cannot be found within the framework of agriculture alone. Rather they require an interplay of values and judgments of interested people wherever they may be—farmers, businessmen, homemakers, laborers, technicians, administrators, and politicians. And out of it should come a *group decision* as to what we want from our resources and how we can go about improving them along that line.

Hoping that market price for the resources will reflect the combined values of all the people interested in the problem is not enough. It does not. If it did, there would be no problem. Problems of inadequate water supplies, pollution, too many children for the schools or too few, inadequate recreational facilities, congested highways,

taking of good agricultural land for airfields, munition plants, or residential sites, etc., have no market place where they can be resolved. Too often we as economists fear to venture out from under the shelter of the market price-making mechanism for determining what is the best course of action. When we do, I submit we must rely on some other system of procedures or rules that will make group decisions effective and at the same time protect the rights and opportunities of individuals.

But the point here is that people have been increasingly looking at the possibility of rural zoning in an effort to solve nonagricultural as well as agricultural problems, where conflicts of interests must be resolved, or the costs of joint uses must be allocated.

### **RURAL ZONING OR COUNTY ZONING**

Rural or county zoning in itself is not the answer. Zoning is simply a legal instrument of government by which police power is used to regulate what an individual may or may not do with his land. It is an ordinance which may be enacted by any unit of government that has authority to use police power for such purposes.

Because police power is a severe directive force, very important rules and procedures have been established governing its use. Here are some of them:

1. Zoning (police power) can only be used to protect "health, safety, morals, and general welfare." This means that the regulation must serve a substantial public interest.

2. State enabling legislation is necessary before the local unit of government is authorized to zone. These enabling acts generally spell out in detail the procedures which must be followed in passing a zoning ordinance. Although a state zoning ordinance could be passed, regulations such as zoning for land use generally will be permitted only when developed close to the local level.

3. The ordinance cannot deprive the landowner of his property without "due process of law." In the language of the U. S. Supreme Court the guarantee of due process demands that "... the law shall not be unreasonable, arbitrary, or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained."

4. The individual must have adequate opportunity to be heard, generally through formal public hearings.

5. Generally zoning ordinances cannot be retroactive; hence, a nonconforming use at the time of enactment becomes a legal use.

However, some ordinances being enacted liquidate existing uses after the landowner has a reasonable time to recover his investment in the nonconforming use.

6. The individual always has recourse to the courts. But in addition, most zoning ordinances establish an appeals board to which an individual can take his grievance. These boards usually have authority to make minor modifications in the regulations if not in violation of the intent of the ordinance.

7. Provisions need to be made for modification or repeal of the ordinance.

Legal procedures are, of course, involved. The laws governing zoning are a state matter and may differ from state to state. Hence, it is wise when working on zoning to have your law school or state and county legal officers participating.

The real importance of rural zoning to our policy deliberations here is not, however, the law itself. Rather it is the policy or group decisions that must of necessity precede a zoning ordinance. The ordinance must classify land into use districts or zones with the boundaries clearly described—usually on an official map. The regulations applicable to each zone are a part of the text of the ordinance. Before these land-use districts are established, consideration must be given to what the future use of all the resources in the area should be. The first and most important step in zoning is the development of a plan for land use.

Certainly one of the early steps in the process is an appraisal of the present resources and their use. This requires information on soil; topography; water; mineral resources; timber; the location and organization of farms, industries, businesses, residences; schools, highways, etc.; and the urban and community organization. To all this must be added information about the people—their income, employment, and how many may be expected in the future.

From here the process really becomes difficult because it involves value judgments by groups of people with widely divergent experiences and interests. Somehow the land-use alternatives must be evaluated in terms of expected needs. These alternatives involve not only a comparison between different land uses but also between different combinations of land uses and the feasibility of each.

From this kind of an appraisal of alternatives must come a group decision as to how the land should be used. This is the process that must precede the enactment of a zoning ordinance, and I submit it is

not only a real policy matter but also an educational process in which extension and the land-grant colleges should be involved.

#### **LAND USE AND ZONING IN WISCONSIN**

County zoning ordinances are in operation in 41 of Wisconsin's 71 counties. Four additional counties have highway setback ordinances which apply to rural land, and some of the rural towns in three other counties have town zoning ordinances containing regulations on rural land. Twenty-seven counties in the northern part of the state have zoning ordinances. Forestry, recreation, and agriculture are the major land-use zones of the northern ordinances. They restrict about five million acres against agricultural use and settlement.

The land problem of northern Wisconsin came into focus between 1924 and 1928. The land settlement companies that had taken over the landholdings of the lumber companies were convinced after several years of trying that they could not sell their cutover land for farms—that the plow would not follow the axe. So they let it go for taxes. The tax delinquency spiral started. Tax rates had to be raised, causing more land to become delinquent. More delinquency required the further raising of tax rates. Individuals were losing their land, and local governments could not meet their expenses.

The University was doing research on the problem and suggested some lines of action. A legislative committee conducted an extensive investigation of the problem, including many public hearings in the northern counties. Out of all this came a group decision that five million acres, or one-seventh the area of the state, should be used for forestry. The 1927 session of the legislature passed a forest crop law which sought to encourage forestry use by changing the method of forest taxation. At the same time enabling legislation was passed granting counties authority to zone rural land.

In the process of developing the county ordinances, the areas which should be used for forestry were specifically defined. The Extension Service furnished the basic initiative and leadership although it was very much a team activity. Some important lessons were learned in the process.

1. Basic information was needed, of course. However, specialists or other college personnel did not go into a county to work on a zoning ordinance until the county board of supervisors adopted a resolution asking the college for assistance. This simple device had the effect of initially acquainting the members of the county board with zoning. But much more important, it made the specialist or researcher a part of the local group. He was helping the people of the county, the county board, and its zoning committee.

2. A number of educational steps were added to the minimum legal procedures. We call them extra-legal procedures. It was decided, I think very wisely, to hold several public educational meetings in each township. The subject matter of these meetings included basic data on resource use, the alternative of forest use, what zoning was and how it might work. Many zoning meetings have missed the mark because they lacked the basic data and land-use analysis adequate to ground the decision. Although the county agent set up these meetings, the town chairman was present and he or another local person chairmanned the meeting. These meetings gave everyone in the township a chance to get some information and to participate in the discussion. It also gave the town chairman, who would later have to vote on the ordinance as a member of the county board, a chance to determine how the people in his town felt about the issue.

3. The decisions on whether to zone, what districts to have, and the specific boundaries of forestry districts were initially made at the last of these educational meetings. The specialist was by this stage part of the group and brought his information to bear on the decision. The forestry districts or zones that were thus drawn matched up well between towns and counties. The people at these meetings imposed more severe restrictions on themselves than a technician would have dared to impose. In fact, I am convinced northern Wisconsin would have had few, if any, ordinances had the local people not felt this was their ordinance. It represented what they as a group wanted. The widespread sense of responsibility for the group decision and the participation in it are, I think, essential elements of a zoning ordinance and its subsequent administration. This becomes increasingly difficult to achieve as current land-use problems become more complicated.

4. These extra-legal or educational steps become additional procedural safeguards where the individual, lacking a market place, can make his interest known and his judgment count. At the same time they made it possible to pass a rural zoning ordinance. After the educational meeting the legal enactment of the ordinance was a mere formality.

The real importance of rural zoning in northern Wisconsin, or for that matter any zoning ordinance, is not the legal instrument that is developed. Rather the significance is in the fact that people must evaluate all their resources and come to a specific agreement as to how the resources should be used.

The zoning ordinance is a device that can help guide land-use development along the lines prescribed. It can prevent future isolated settlement; reserve the best industrial sites for future industrial use;

prevent future uses of the river's flood plain that would permit substantial loss in case of flood; protect public access to lakes; protect residential areas against encroachment by undesirable uses; protect the land along highways from uses which are both unsafe and unsightly. Since its regulations are not retroactive, it is primarily useful in guiding future long-range developments. It is only one of a number of devices using police power regulations for this purpose, which include among others subdivision control, use regulations of a variety of districts (soil conservation, conservancy, irrigation, drainage, etc.), building and sanitary codes, etc.

Although the zoning ordinance has the force of law, Wisconsin experience indicates that the most effective means of enforcement is through the various informal pressures that the community brings to bear on a person contemplating a use contrary to the ordinance.

In spite of the very considerable function that zoning has in guiding future land use, the group decisions of what that land use should be are still more important. That is, the basic plan is more important than the tool. These decisions can be and are a very effective means of channeling and integrating all activities aimed at resource development.

In northern Wisconsin a federal program was modified and integrated with the land-use development plans. The decision was to get five million specific acres of land into forest use and under organized management. The people in the communities and in the state set about to get this job done.

Laws were passed to permit counties to exchange land with isolated settlers (nonconforming users). In many cases the county traded land close to highway, school, or community for the nonconforming user's isolated tract of land. In many instances, too, the local people, in the "barn raising" tradition, got together and helped the isolated family move its buildings and facilities to the new location. Although the local people were trying to shift the use to forestry by the means they had available, and some of them demonstrated considerable ingenuity, a number of cases of isolated settlement could not be handled in this manner.

In the 1930's the federal government passed land purchase legislation designed to help shift land use. Project plans, including the direction of needed adjustments, were formulated for some of the most critical land-use problem areas. Land was purchased and subsequently managed according to these plans. In Wisconsin, after special audience with the Secretary of Agriculture, and with his approval, federal land purchase funds were used to buy out isolated



settlers (nonconforming users). Because of high costs, this generally could not be handled by local efforts. Scattered tracts were purchased in nearly all the northern counties. By themselves these purchases would not seem to add up to any substantial adjustment. However, they became integrated with the total efforts to shift land use and develop the resources of the area.

I am convinced that the federal purchase funds used in this manner were responsible for much more significant adjustments and development than would otherwise have been true. In addition, these federal lands are now incorporated in well-managed forest areas which need a minimum of federal management. In many cases the federal lands have been transferred to county ownership or leased to local management units. The management problems on federal purchase lands in Wisconsin are not only minimized but the land is being used in conjunction with the surrounding land and in accordance with some definite local group decision as to how the area should be used or developed.

The federal purchase experience is only one of many activities that were integrated with the resource development program described in the zoning ordinances. One result is five million acres of valuable growing forests under organized management. By now the growing forests have also become the resource base for a rapidly growing recreation industry. The inadequate one-room rural schools are disappearing. One county which in the early 1930's had 34 one-room rural schools now has none. A Wisconsin bulletin, "From Public Burden to Public Benefit," tells the more complete land-use and zoning experience of Marinette County.

### **LESSONS FROM ZONING**

I would like to say a few words about the significance of this review of zoning to us in extension policy.

As indicated at the beginning of this paper the solution to the problems in agriculture must be found, in a substantial part, outside of agriculture—in the employment opportunities and economic welfare of the community. At the same time demands are increasing for nonagricultural uses of land. It is becoming increasingly evident that some form of community resource development program is needed—a program that will represent the will of nonfarm as well as farm people, a program that includes the development of nonagricultural as well as agricultural uses of land.

We do not have to look far to see how deeply the federal government is committed to supporting of community development programs. Note the statement of objectives for the rural development

and low-income program before the Senate Agriculture Appropriations Committee:

During the past decade, rural community development in many areas of the Nation has had remarkable success in bringing about better farming, a diversified economy, and general improvement in the physical and economic environment. The rural development program has as its main purpose the stimulation of such rural community development through a practical combination of time-proven Federal-State services under the general direction of local agricultural, business, civic, and religious leaders.

The Extension Service has the leadership responsibility for this program (considerable amounts of new research funds have already been earmarked for this activity).

The idea behind the rural development program and the procedures to make it an effective program are almost identical to those we used in developing rural zoning ordinances. It is the extension philosophy of helping people help themselves. Only in this case it is helping groups help themselves, and the groups include nonfarmers as well as farmers. The rural development program is really just an advanced step in our program projection activities. The two Wisconsin counties in which the rural development program is being launched both had previously done an excellent job of program projection. Both also have had the rural zoning experience. Our real job in extension, whether we call it zoning, program projection, or rural development, is to facilitate wise group decisions as to how we want our resources to be developed. And we have considerable experience on which to draw.

Making the development plans, however, is not enough. People will not long be satisfied making plans unless they can see some results. So in addition to our efforts to evolve wise resource plans we also have a responsibility to aid in formulating the type of activity necessary to carry the program forward. Zoning is only one of the many extension activities that have demonstrated the wisdom of integrating plans and action.