

THE DEVELOPMENT OF URBAN FORM
THROUGH PLANNING ADMINISTRATION,
WITH SPECIAL REFERENCE TO OROMOCTO, N.B.

by

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A THESIS

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PREFACE

Planning today cannot be considered independently from the functions of government. It is indirectly connected with the economic and social life of the people and cannot become effective unless it is backed by appropriate legislation. Mechanization of industry, new methods of transportation, the great increase in population and the scarcity of land in many countries, have brought about the realization for the need of overall planning, in order to avoid waste and achieve orderly urban growth. The scope of planning has widened beyond the laying out of the physical pattern of a city to include social and economic considerations. As such, it is directly related to government.

R. Walker in "The Planning Function in Urban Government" writes: "leaders of the planning movement have from the first recognized that planning, while creating a more desirable community in which to live, has as one of its objectives the more efficient and economical provision of municipal services. Planning has tended to reflect the expanding scope of municipal government."*

In recent years urban form has been effected through the application of two separate systems of planning ; the conventional system which guides the develop-

* p. 106

ment of urban form taking place through evolution, and the positive development system which endeavours to instigate growth and provides the financial and administrative means to do this.

This paper attempts to deal with the development of the two systems and with the principles involved in their administrative methods. It also attempts to illustrate how urban form has been developed through their application by studying selected examples of Canadian towns.

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PART ONE: THE DEVELOPMENT OF MODERN PLANNING.

CHAPTER I -

DEVELOPMENT IN GREAT BRITAIN AND THE UNITED STATES

Through the centuries, urban form has developed in both a planned and a spontaneous way. In the Greek, Roman, Renaissance and Baroque periods there were some planned towns but the majority developed without following a predetermined pattern. The problems arising from unguided growth became evident with the beginning of the industrial era and the increase in urban populations during the latter half of the nineteenth century. High densities presented health and sanitation problems and produced slums and considerable traffic congestion. Due to the absence of regulations, any property owner could cover 100% of the area of his lot up to any height, with no consideration whatsoever for the effect his development might have on neighboring properties and on the appearance of the street.

The first regulations for control of development to appear in most countries were included in the provisions of the Health Laws.

Early Development in Great Britain

In Great Britain, the Public Health Acts, the

first of which was passed in 1875, dealt with sanitary regulations but also provided for town planning features with respect to highways, streets, building lines, etc.

These regulations influenced the form of later development. J. Adams in his book "Modern Town and Country Planning" * writes: "If we wish to estimate the general effect of the Public Health Acts with respect to town structure alone, we may visit many of the cities and towns in the provinces and ask to see areas laid out with "bye-law" streets. They all have the same features of depressing uniformity and absence of architectural quality in the arrangement of streets and buildings. The fault lay in the absence of a complementary Act to control the planning of towns."

The Garden City Idea

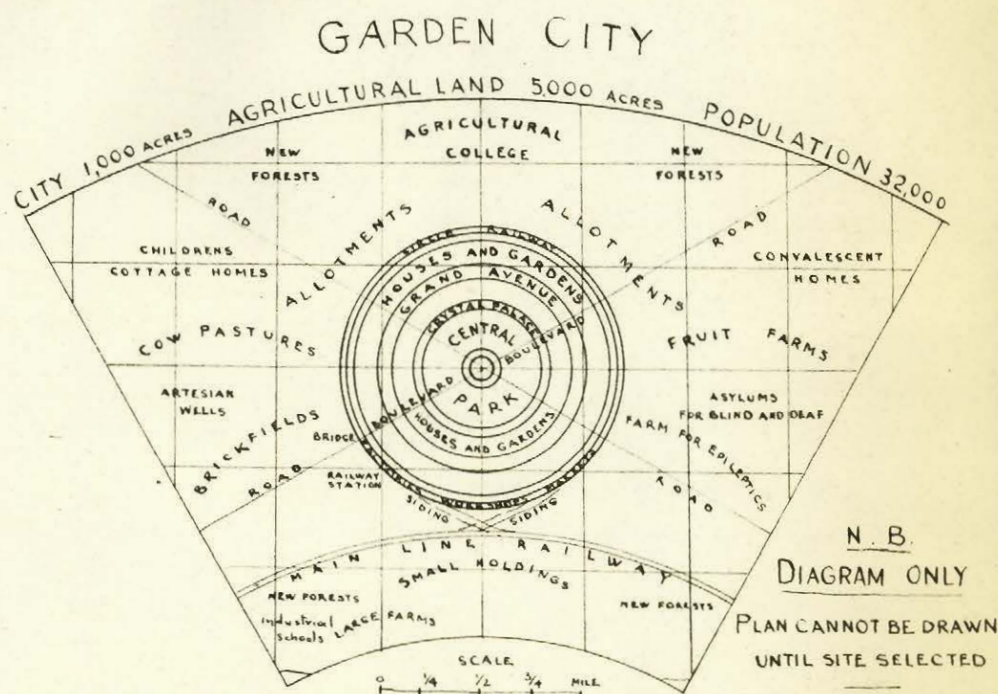
The dreary ugliness of industrial towns and the appalling conditions in which the greater number of urban dwellers lived, created an outcry among the idealists. The most important of these was Ebenezer Howard, a court stenographer, who, in 1898, published a book entitled "Garden Cities of Tomorrow" in which he expounded a new theory in town planning which would combine all the advantages of city life with the charms of the countryside. Aware that cities were be-

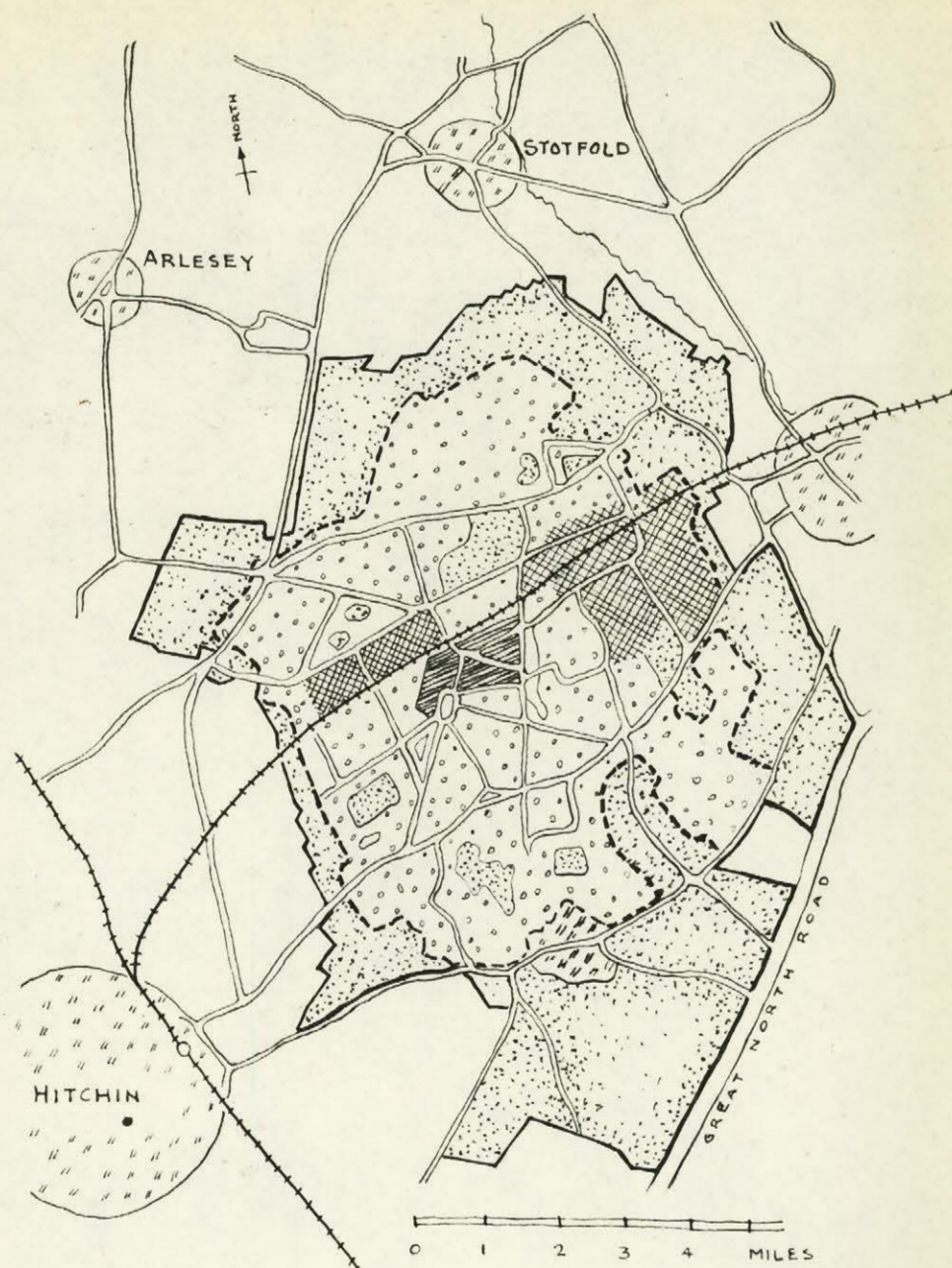
* p. 29

coming too large to manage, he proposed that they be split into smaller, independent towns of a limited size and of a population of 30,000. Each would be planned as a complete unit with residential, industrial, shopping, public building and park areas all laid out from the start. They would be surrounded by a belt of farm land never to be built upon and intended to limit the extent of urban growth. The town would be built in successive circles, the core consisting of civic buildings set in a park and surrounded by a belt consisting of dwelling houses. Industry would be located on the outskirts. The economy would depend partly on industry and partly on agriculture. To guarantee the success of his plan all land was to remain in public ownership and all profits accruing from increments in value of the land was to be returned to the community. This would ensure control of future development and eliminate speculation.

Howard's ideas found immediate response and in 1899 the "Garden City Association" was formed. In 1903 it purchased a site about 34 miles from London and started the city of Letchworth. Other cities such as Welwyn and Hampstead followed. The attractive environment created in these developments had a widespread influence on planning design but mostly on suburban subdivisions rather than on complete towns.

In general, the garden city theory was well received and illustrated the benefits incurred by planned development. It introduced the idea of community controlled land and of dividing a town into districts for different uses. Yet these ideas were not reflected in planning legislation until considerably later.





RESIDENTIAL



INDUSTRIAL



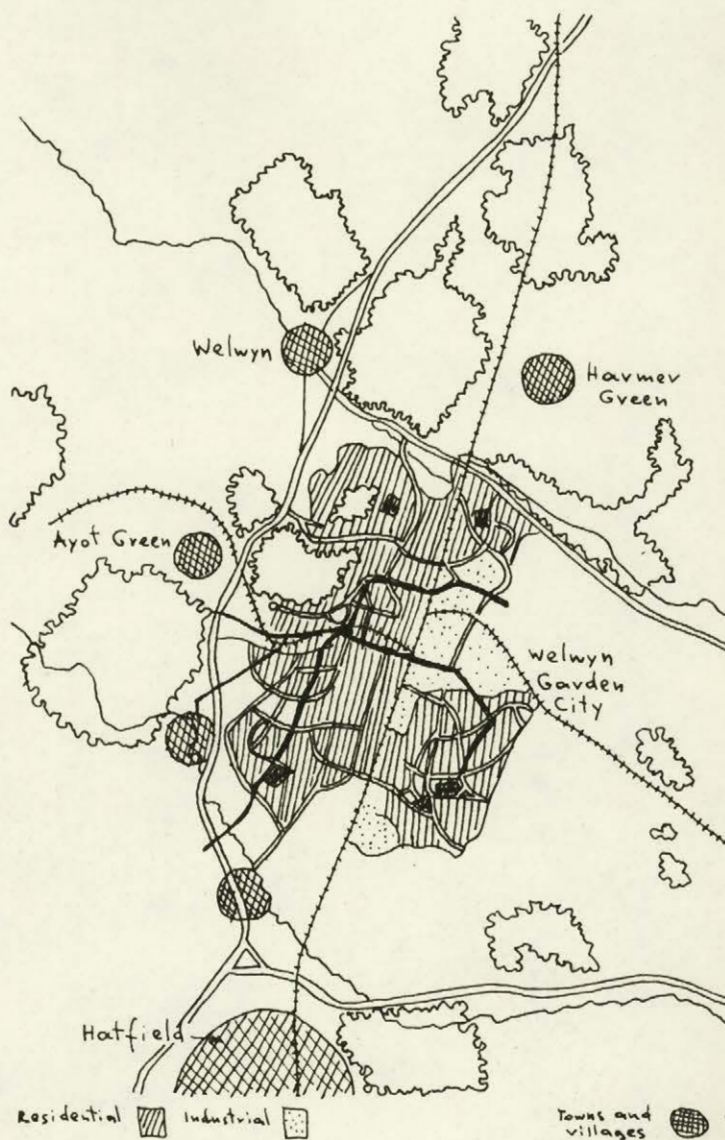
SHOPPING



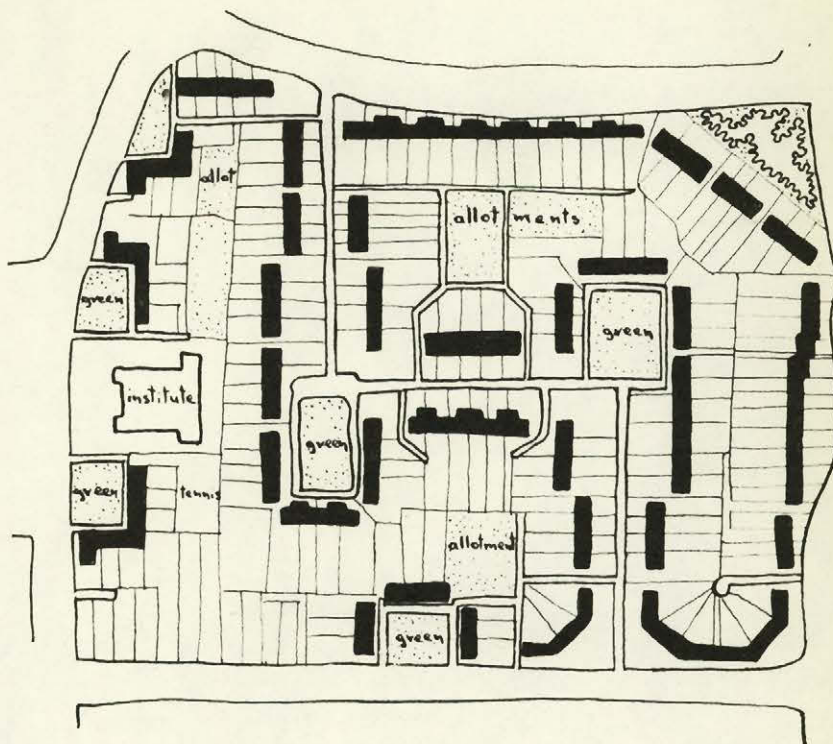
TOWNS & VILLAGES



P L A N O F L E T C H W O R T H



PLAN OF WELWYN



LETCHWORTH , PIXMORE HILL

Garden City Tenant's Cottages

Early Development in the United States

In the United States the congestion created by the unprecedented increase in urban populations due to mechanized industry was further aggravated by continuous immigration. In 1834 a sanitary report for the city of New York pointed to bad housing as a cause of disease. The New York city health department was created in 1866 and health laws were passed which, among other things, instigated the creation of parks as breathing spaces for the people.

The enormity of the task required to better existing appalling conditions brought about the realization of the great necessity for anticipating and guiding future development and for mapping long term programs. Piecemeal growth without any overall scheme was proved to be wasteful and uneconomic. Planning in its early stages in the United States developed along three different lines. The first evolved about the "City Beautiful" movement and dealt with the architectural appearance and the physical aspects of the city. It was given impetus by the Chicago World's Fair of 1893 which stirred people's imaginations by showing that it is possible to introduce some beauty into the layout of their cities. As a result of this movement, a number of cities and private citizens organizations embarked upon the preparation of Master Plans concerned with the physical aspects of planning. The emphasis was on civic

centers, parks, streets, boulevards and squares. Most of these schemes never materialized due to lack of the proper legal foundations necessary for their implementation, yet a beginning was made in the realization that some kind of a plan was necessary to guide development.

The second movement of planning in the United States was in the field of Landscape Architecture. It was headed by the Harvard School of Landscape Architecture and was concerned with the most attractive and the most efficient use of land.

The third movement of planning originated in the field of zoning.

Provisions of the Health Laws alone were inadequate to provide a satisfactory form of control over the exploitation of land in the central urban areas. The over intensive land use in the core of the city resulted in great congestion of people, buildings and traffic. Land was at a premium and developers attempted to cover as much of their sites as possible and to build as high as possible. High densities not only endangered the health of the people but also created acute problems of transportation. Cities became increasingly aware of the need to control the use of land and buildings, as well as the height and bulk of buildings and the density in an area. In 1913 the "New York Heights of Buildings

Commission" published a report on the basis of which the first comprehensive zoning ordinance was adopted by New York city in 1916.

In time several States adopted zoning enabling acts granting municipalities the right to zone and setting forth procedures of how to adopt zoning ordinances. The courts upheld zoning in most instances and gradually shaped zoning law in the United States.

In the 1920's the interest in planning was continually increasing. It was being accepted as a function of government and its scope was widened to become more comprehensive and contain a greater number of public improvements, zoning and subdivision control. The 'voluntary citizens' organizations which were previously active in preparing plans, were gradually superseded by semi-independent official planning commissions, appointed by the city councils in order to advise the councillors on planning matters and to prepare a plan indicating the future pattern of growth.

Present Practices in the United States

Planning in the United States is of a permissive and regulatory nature similar to planning in Great Britain before the war. The authority to plan devolves upon local authorities which may embark upon planning activities if they wish to do so.

Statutory powers for planning purposes are general-

ly obtained through State Legislature rather than through the powers of "home rule" on which local government is based. Planning powers are often enacted in separate statutes each covering a specific planning function. They primarily deal with the allocation of land for public purposes.

The acquisition of land for planning purposes is not provided for in the planning statutes but comes under the jurisdiction of "eminent domain".

The planning agency is the semi-autonomous citizen's commission. Planning by commission has not proven satisfactory. The commission is created outside the departments of local government in order to keep planning out of politics. Yet planning concerned with the most efficient and economic provision of municipal services is definitely a function of local government and cannot be carried out effectively unless closely related with it. An independent citizens commission is not familiar with all the problems facing the council and therefore not always reasonable in their demands for allocation of public funds. City councils are therefore not sympathetic towards them, especially since they consider them amateurish and not possessing the knowledge and the necessary grasp of planning to be able properly to carry out their duties.

The failure of most planning commissions to

function effectively is now making it evident that planning, to become effective, must become a function of local government.

The primary duty of the planning commission is to prepare a plan incorporating its proposals for the future growth of the town. Upon its completion the plan is adopted by by-law and becomes a legal document. Any changes or amendments to it have also to be introduced by by-law. This renders the plan rigid and inflexible and incapable of properly serving the purposes of planning which has to constantly meet changing conditions.

Zoning in the United States is an application of the police power. Its legal basis is in the common law of nuisances that no person should be permitted to use his property in a way that would cause injury to others. Yet the courts upheld zoning not only as a tool for the prevention of nuisance but also as a means of effecting a better community life.

Unfortunately, recent practices of zoning only accept it as an instrument for preserving the existing character of various districts and protecting property values. As such it is inflexible and static, hindering rather than guiding development.

CHAPTER II

THE DEVELOPMENT OF PLANNING LAW IN GREAT BRITAIN

1909 Act

First in 1909, an Act was passed to provide for new development. It stated that local authorities may prepare "a town planning scheme with respect to any land that is in course of development or appears likely to be used for building purposes, with the general object of securing proper sanitary conditions, amenity and convenience in connection with the laying out and use of land". From the beginning, therefore, planning in Great Britain was established as a function of local government.

1919 Act

The amending act of 1919 gave to the local authority the power to initiate a scheme. In addition, it empowered a Minister to acquire land by agreement or compulsion, on behalf of a local authority wishing to develop any land as a garden city.

1932 Act

The Town and Country Planning Act of 1932 increased the planning activities of local authorities by providing them with additional powers to acquire land, to regulate the development of land, to control the use of land and buildings and to reserve certain areas against building development. They may exercise these planning functions only if they so desire, and in so doing, assume both the administrative and financial responsibilities of those functions. The powers are entirely permissive and

regulatory. As a result, a great many towns never took the necessary steps to embark on planning operations. Since planning was the responsibility of local governments only, whatever schemes were undertaken were of a local character and were not parts of a comprehensive whole. Local authorities with limited means were unable to face the great cost entailed in the payment of compensation that the implementation of the plan would involve, and as a result, seldom wished to enforce it.

The central authority had no effective powers of authority or of financial assistance. In essence the 1932 Act was based on the conception of planning as a negative check upon undesirable development. It did not ensure that development would take place where and when desirable in the national interest. The limitations of the 1932 Act were soon realized. Conditions of overcrowding and urban sprawl did not improve and the government decided to embark upon an investigation of the grave planning problems with the intention of initiating new planning legislation. To conduct the study, it appointed three Royal Commissions.

The Recommendation
of the
Planning
Commissions

In the middle of the darkest period of the war in 1940 and 1941, the Commissions published three extremely important reports based on their findings:

The Barlow
Report

The Barlow report dealt with the distribution of the industrial population in Great Britain. The siting of heavy industry at sources of primary materials such as coal etc., without any other industries nearby to offer opportunities of alternative employment had caused great financial hardship to the workers who, in times of recession, had to drift to the cities in the hope of getting work.

Concentration of many and varied industries in the cities resulted in large concentrations of population there and, consequently, in overcrowding and congestion. The Barlow report recommended the decentralization of industries and proposed the creation of a central authority of a national character to deal with it. It also suggested the creation of garden cities, satellite towns, trading estates, etc.

The Uthwatt
Report

The Uthwatt report investigated the problem of compensation and betterment. The increased demand for more houses and industry had caused land values to rise disproportionately. Quicker and better transit systems brought a great area of land adjacent to towns within reach of possible future development and extended the boundaries of land speculation. Although development in the foreseeable future could only have covered a fraction of it, the entire area suffered from

an unreasonable increase in valuation. Planning regulations up to that date required local authorities to compensate at current prices any owners on whose land they were prohibiting development. Being unable to carry such a financial burden the authorities often allowed undesirable development to take place to the detriment of the community. In addition, local authorities found it increasingly difficult to provide sites for schools, houses, public open spaces and amenities.

The Uthwatt report made the following recommendations :

1. Development rights in all land outside built-up areas to be vested in the State.
2. Compensation to be paid to owners for the resulting loss of development value on the basis of a fixed single sum representing the fair value to the State of the development rights taken as a whole and divided among owners in proportion to the estimated development value of their individual holdings at March 31, 1939.
3. The State to purchase, if necessary by compulsion, all land at the time of its development and lease it to the developer for an appropriate term at an appropriate charge.
4. The authorities to be given increased powers of

compulsory purchase of any areas requiring re-development as a whole. The price to be paid for these areas shall not exceed sums based on the value of the land at March 31, 1939.

5. A settlement levy to be imposed on developed land of 75% of any future increase in the annual site value of developed land.

Thus the Uthwatt report made clear that land is a national commodity of great value and that its control shall be vested in the State. It also adopted the idea that the community ought to regain some of the property values resulting from the operation of planning schemes by imposing a betterment levy.

The Scott Report

The Scott report investigated the problem of deterioration of the countryside. Due to increased competition from agricultural products of other countries the English countryside fell into a depression and farmers and underpaid farm workers started drifting to the towns. Provision of services such as water and electricity lagged. The Scott report pointed out the need for better housing and services. It advocated the creation of national parks, stricter control of mines and the creation of a central planning authority with regional offices to deal with all planning problems. Its most important recommendation

was that local planning should be compulsory and not merely permissive, and that the main planning unit should be the country borough in order to have a jurisdiction over a greater area.

Based on the principal recommendations of the Barlow, Uthwatt and Scott reports the government began to prepare new town and country planning legislation.

Adoption of a System of Positive Development.

1943 Act

The planning functions of central government were carried out by the Ministry of Health until 1942. The 1943 Town and Country Planning Act created a separate Ministry of Town and Country Planning thus initiating a new era. It was significant that the government had accepted the idea of the planned use of land as a national necessity and was prepared to deal with it on a national scale.

1944 Act

The 1944 Town and Country Planning Act took the first steps toward positive planning. It empowered local authorities to acquire land for the purpose of developing it themselves or making it available to private enterprise. Exchequer grants were provided for this but only for areas damaged by the war and for areas of urban blight.

1947 Act

The 1947 Act dealt with the principal recommendations of the Scott and Uthwatt reports. By far the most significant planning act it provided the means of bringing about the change from a permissive and regulatory system to one of positive development. It made planning mandatory by requiring local authorities to conduct a survey of their area and to make a plan based on their findings, indicating their proposals for the use of the land and the stages by which any development should be carried out.

To solve the problem of compensation and betterment the act aimed at the following ;

- a) that land is sold at its existing use value
- b) that where land is developed the increase in the value of land due to the granting of planning permission shall accrue to the community by the imposition of a development charge.

To enable planning authorities to carry out their planning functions the act extended their powers to acquire and develop land for public purposes and made provisions for government grants towards this.

Surveys and
Plans

The first two parts of the 1947 Act deal with the requirements for surveys and plans. With the plan, the local planning authority -- the councils of counties or country boroughs -- is required to submit to the Min-

istry a report in the form of maps incorporating the findings of the survey together with a written analysis of the chief problems brought to light by their investigation, and of any other items that can adequately be shown graphically. The written report would also include the ideas leading to the proposals presented on the development plan.

The survey deals with two main subjects — the people, their interests, occupations and needs and the land and buildings. B. J. Collins, in his publication, "Development Plans Explained",* classifies the contents of the survey under four headings:

1. Survey - Population structure, trends and vital needs; distribution.
2. Territorial Survey - Use to which land is put; density of residential accommodation, relationship with industry, commerce and public utilities; conditions for agriculture, forestry, minerals; requirements for government departments.
3. Functional Survey - Conditions of industry, commerce and employment; transit and communication, availability of labor and materials, programming of development, considerations of rating and finance.

* p. 16

4. Social Survey - Community structure, health, welfare, education, open spaces, recreation and holiday facilities; National Parks, conservation and amenities; aesthetic considerations such as buildings of special architectural interest, and ancient monuments.

The survey thus becomes an inventory of existing conditions, physical, sociological and economic and indicates the potentialities and future requirements of an area. It provides the base for the Development Plan.

The Development Plan

The 1947 Act requires that the development plan shall indicate how the local authority intends that the land shall be used and the stages by which any development shall be carried out. The plan must be simple so that it can be easily understood and reasonably precise so as not to be misinterpreted. It must be flexible to meet ever-changing conditions. For the first time the time element is introduced in planning, the realization that ideas and needs change with the years and that planning, in order to fulfil its purpose of serving the people, must be a fluid process. It is nearly impossible to foresee accurately political, social and economic conditions beyond those of the

immediate future and as a result a scheme designed for these conditions must be adaptable to change. This is a complete break from the old system of planning in which a scheme, once approved, was considered finite and procedures for its amendment were extremely copious and difficult. By provision of the 1947 Act, amendments to the development plan can be submitted to the Minister at any time and planning authorities are required to conduct new surveys at least every five years and introduce any changes required to bring their plan up to date. The development plan is prepared by the planning authority, the county council or country borough council on the basis of the information gathered by the survey and of the conclusions derived therefrom. It covers the whole administrative area. It is not a single map but a series of maps, the number of which varies from case to case.

The development maps show only broad proposals because they are intended to provide a framework of policy against which individual planning requirements can be met. They also show the stages in which development shall take place to ensure orderly growth. These stages are usually three in number :

- a. the first five years
- b. the next five years
- c. and beyond ten and up to twenty years

Development plans must be realistic. They must show only reasonable proposals that can be carried out within the next twenty years. Conditions beyond this time limit are extremely difficult to predict. Once the Development Plan is completed it must be submitted to the Minister for approval. In order to ensure that the plan reflects the wishes and needs of the people the planning authorities are required by the Act to advertise locally that the plan is being submitted and where it may be examined. Any objections to its proposals must be addressed to the Minister who will carefully consider them and hold a local enquiry or a public hearing.

Once the plan is approved it can be only challenged on the grounds that it went beyond the powers conferred by the 1947 Act or that it did not comply with the conditions of the Act. Such a challenge can only be made within six weeks after the notice of approval was first published.

Betterment
and Compensation

After setting the requirements for surveys and plans, the 1947 Act went on to deal with the problem of betterment and compensation which was previously studied in great detail by the Uthwatt Committee, and was pointed out as one of the major stumbling blocks to the implementation of planning proposals. The 1947

Act solved the problem by vesting the development value* of land in the State. Thus a landowner would not be entitled to the increment in value of his property resulting from planning measures. Also he would not be eligible for compensation if his land is prescribed to remain in its present use. Only if there was a depreciation in value due to planning operations could the landowner ask to be compensated. The 1947 Act set up a trust fund of three hundred million pounds to take care of such claims.

Designation of Land

The 1947 Act empowered local authorities to designate the area of land that they require for the proper development of their communities. Such land is subject to compulsory acquisition. Once acquired by the local authorities it cannot be sold again but only leased to private developers for a reasonable period, usually ninety-nine years. The designation of land is one of the most delicate problems that the Act presents. A landowner whose land has been designated does not have any incentive to improve it in any way and is also unable to sell it. In order to prevent any unnecessary hardship to private owners the

* by development value is meant the difference in value between the land's existing use and the value it would have for development.

Minister allows the Municipalities to designate an area only if they are likely to acquire it within the next ten years.

The Problems of
the 1947 Act

By nationalizing the development values of the land, the 1947 Act provided a most logical answer to the grave planning problems of Great Britain where land is a rare commodity. Yet strict controls always produce after effects. The Act is often criticized as stifling individual initiative. Private developers are often discouraged from undertaking any projects by the imposition of the "development charge". Landowners are unwilling to sell their land at the price of its existing use, and developers often pay speculative prices hoping that their "development charge" will not be so great as to make their projects uneconomic. The development charge was only introduced to compensate for the loss incurred to the individuals whose development permit was refused. If, later on, it is found unnecessary to compensate such individuals then this charge might be dropped and this problem eliminated. Due to the tight economic situation in Great Britain after the war it is hard to assess the full effects of the 1947 Act yet. Planning is only one of the activities for which public funds have to be allocated and in the first years after 1947 many other needs had to be filled first.

CHAPTER III

NEW TOWNS

Most of the recommendations of the Barlow, Uthwatt and Scott reports were incorporated in the planning legislation and the policies of the country. The 1947 Act was mainly a result of the Uthwatt and Scott reports. The Barlow report brought about the realization of the need for decentralization of industry and population from the great urban centers for a more economic way of life and also for security reasons. In 1944 Sir Patrick Abercrombie published his "Greater London Plan" with proposals to alleviate congestion in the built-up area by relocating one million inhabitants in new towns in the periphery of London. The government decided to carry out this proposal and establish a number of new towns within sixty miles of London, to which excess industry and population could be moved.

In 1945 a New Towns Committee was appointed under the chairmanship of Lord Reith in order "to consider the general questions of the establishment, development, organization and administration that will arise in the Promotion of New Towns and to suggest guiding principles on which such towns should be established and developed as self-contained and balanced communities".

The committee submitted three reports. The first interim report dealt with administrative matters such as the type of agency that could be set up to develop new towns. The second interim report dealt with land acquisition and disposal and with matters of local government. The final report included detailed recommendations on the principles involved in planning a new town and on methods of administration.

The New Towns Act of 1946 provided for the designation of sites for New Towns and for the establishment of a Development Corporation to effect urban growth. It also dealt with the acquisition and disposal of land, the development of services, etc. and with the manner by which the Development Corporations would be financed and how, eventually, they would be wound up after transferring their interests in the New Towns to the local authority of the area.

Designating a Site

Designating New Town sites involves a great deal of study. Inclusion of valuable agricultural land must be avoided as much as possible. On the other hand, the site must be reasonably level so that development costs will not be excessive. It should have a reasonably good road access and should be close to a

railroad line. It has to be attractive to industry and should not be too far distant from the city which it intends to relieve of some excess population. If the New Town is too far away people will not willingly move to it. Again, if it is too close to an urban center it will be in danger of becoming a suburb.

The size of the area required to be designated for a New Town is based, with some modifications, on the recommendations made by Lord Reith's Committee. These recommendations state that a designated site shall include all land needed for development plus a peripheral greenbelt three quarters of a mile wide. On the basis of twelve persons per acre, the recommended density, the area required for a new town of a certain population may easily be calculated.

The Ministry of Town and Country Planning has been inclined to keep the designated townsites as small as possible in order to prevent any waste of valuable agricultural land and also to limit local opposition to the project. Ordinary planning legislation could prevent unwanted development in any area, therefore the greenbelt zone has often been excluded from the designated town sites.

Designation of an area as the site of a new town makes the land and any building on it liable to compulsory acquisition. This brought about strong

opposition to proposals for New Towns, especially since the 1944 Town and Country Planning Act established the value of land and buildings at 1939 price levels. Inflation rendered this unjust because people were unable to replace their home with the money given in compensation. The Town and Country Planning Act of 1947 remedied this by establishing the value of buildings at the current market value.

To designate a chosen area the Minister of Town and Country Planning has first to publish the draft of the designation order. If any objections are received he must hold a public local inquiry during which he has to expand the proposals for the New Town and hear the objections to it. After studying these objections he must make his decision public in a letter and state his answers to the objections put forward at the previous meeting. In many instances, when objections are raised to the inclusion of a certain area of land which is not indispensable to the New Town, such land is usually excluded, especially if it is agriculturally productive.

Development Corporation

The New Towns Act of 1946 empowered the Minister, after consulting the local authorities concerned, to appoint a development corporation. This may consist of not more than nine members, one of whom must be a resi-

dent of the locality. The Act empowers the Development Corporations "to acquire, hold, manage and dispose of land and other property, to carry out building and other operations, to provide water, electricity, gas sewerage and other services, to carry on any business or undertaking in or for the purposes of the New Town and generally to do anything necessary or expedient for the purposes of the New Town or for purposes incidental thereto".

The Development Corporations are separate from, and above, the local government of the areas in which their designated sites are situated. They had to be created as an independent body because often the New Towns occur in districts under the jurisdiction of several local authorities which would otherwise have made planning impossible. Nevertheless, the local authorities exercise their own powers of control, and collaborate with the Development Corporations in matters of day-to-day administration.

Acquisition of Land

Initially, it was recommended that the Development Corporations acquire, from the start, most of the land required for the development of a new town. But this proved to be a great financial burden and, as a result, the Corporations have been acquiring only as much land as they will need for development in the first

two years.

Planning

The Minister of Town and Country Planning requires that a Development Corporation submit for approval a master plan delineating the general pattern of urban development to be undertaken. This plan must be accompanied by detailed surveys of the site and the existing uses of land. Upon submission of the plan the Minister holds a public inquiry during which objections and comments upon it may be heard. Before the final approval of the plan the Minister is required by Statute to consult the local planning authorities in whose areas the town site is situated.

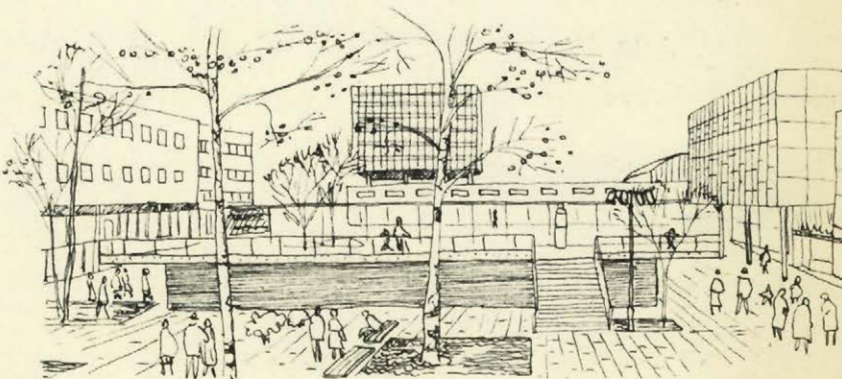
Finance

The New Towns Act provides for government financing of the Development Corporations. The Minister is empowered to advance public funds to the Corporations for their expenditure and, in addition, assist them by the provision of grants.

Corporations have to repay the Treasury within a specified period, the advances made to them. They are required to repay capital and interest but, due to the initial financial burdens of development, they are allowed to defer repayment of capital for a maximum period of five years and pay only the interest in the interval.

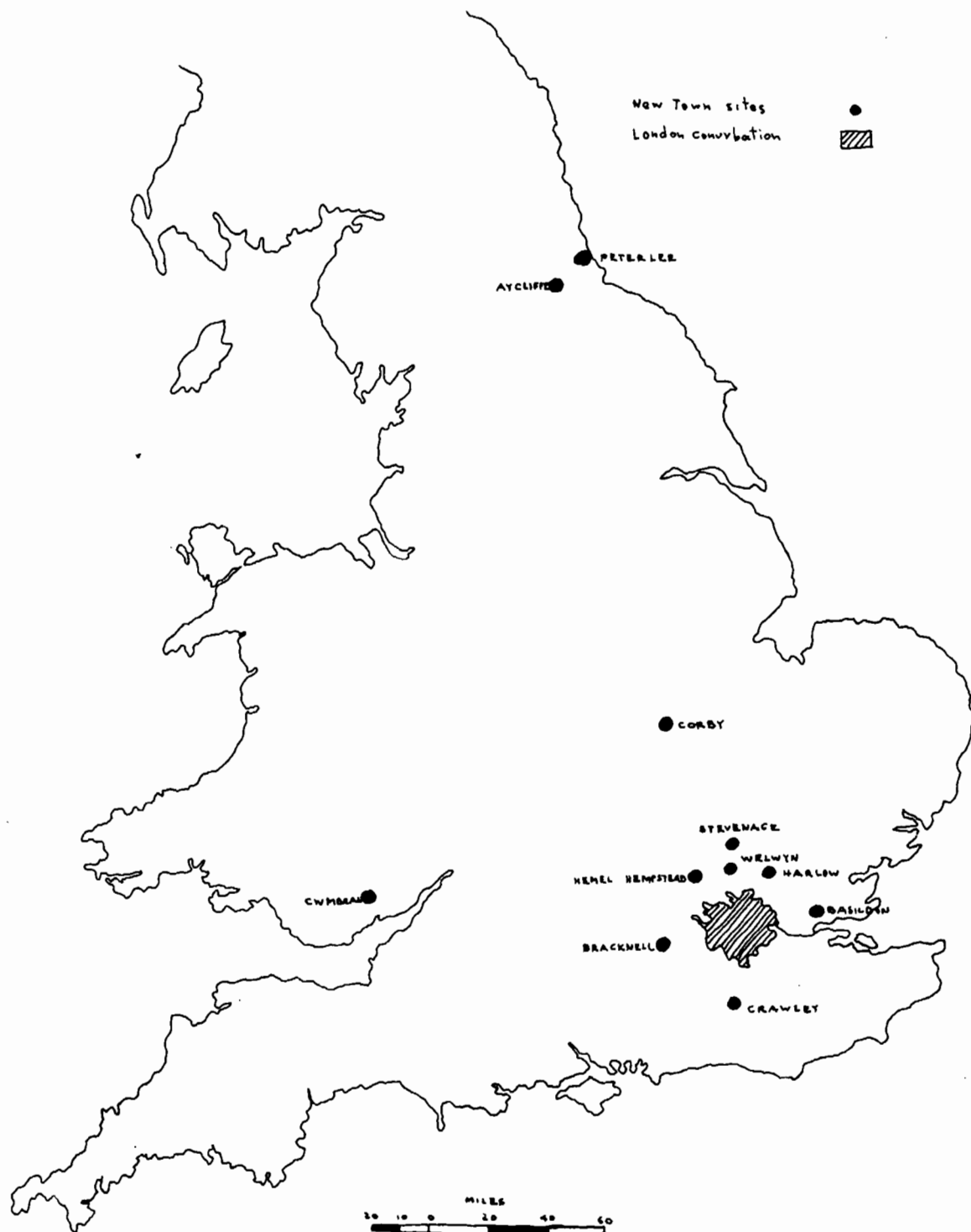
In order to obtain advances, Development Corporations have to submit their proposals together with their annual budgets for examination and approval by the Minister.

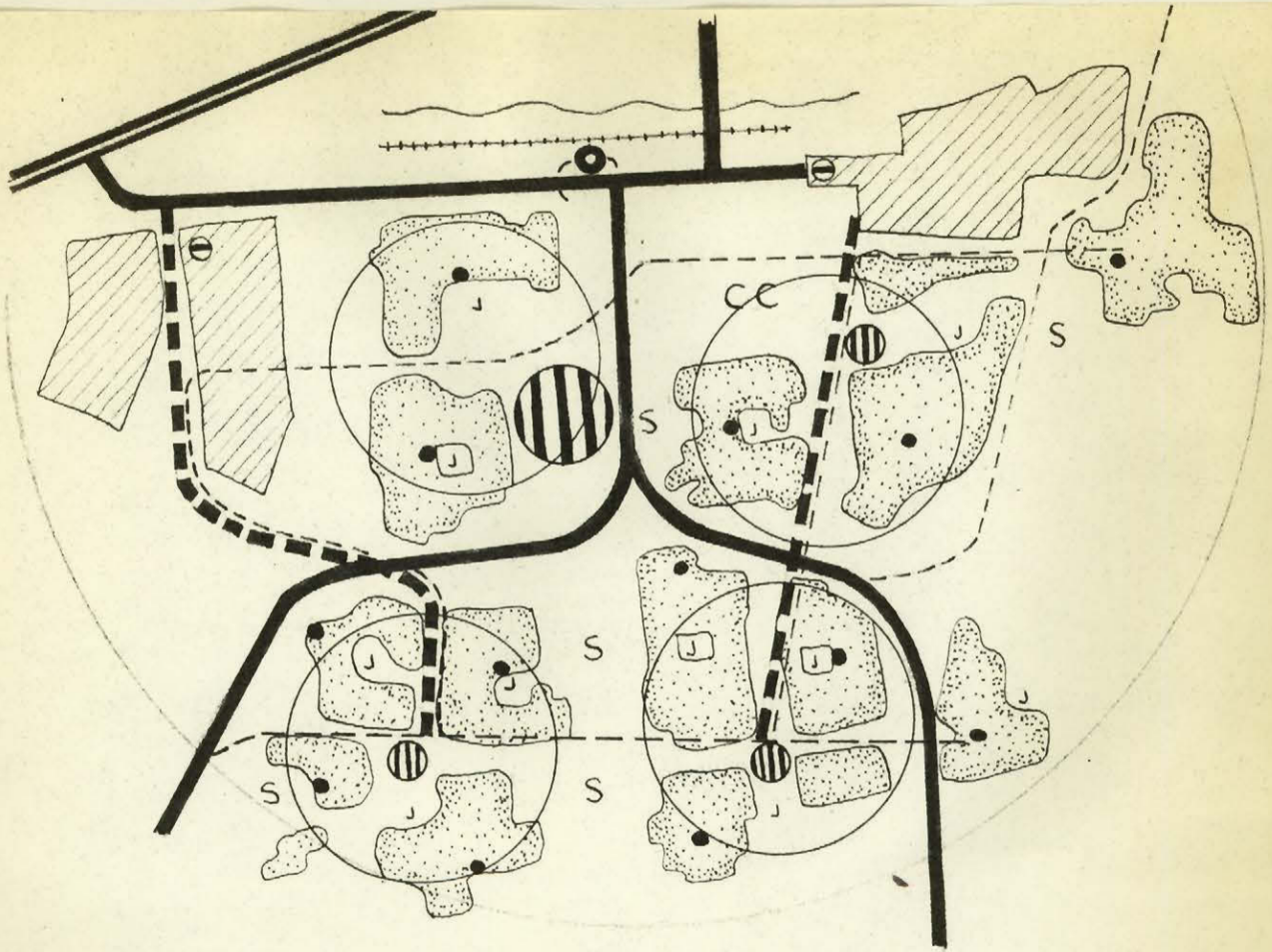
In addition to capital advances, Corporations also receive outright grants in order to cover a percentage of their deficit in the early stages of development, when a great many services have to be provided before any building actually takes place and large expenditures are involved without any incoming revenue.



STEVENAGE ENGLAND . The Town Square

NEW TOWN SITES IN ENGLAND AND WALES





HARLOW Diagram of Town Plan

Residential Areas

Industrial Areas

Town Center

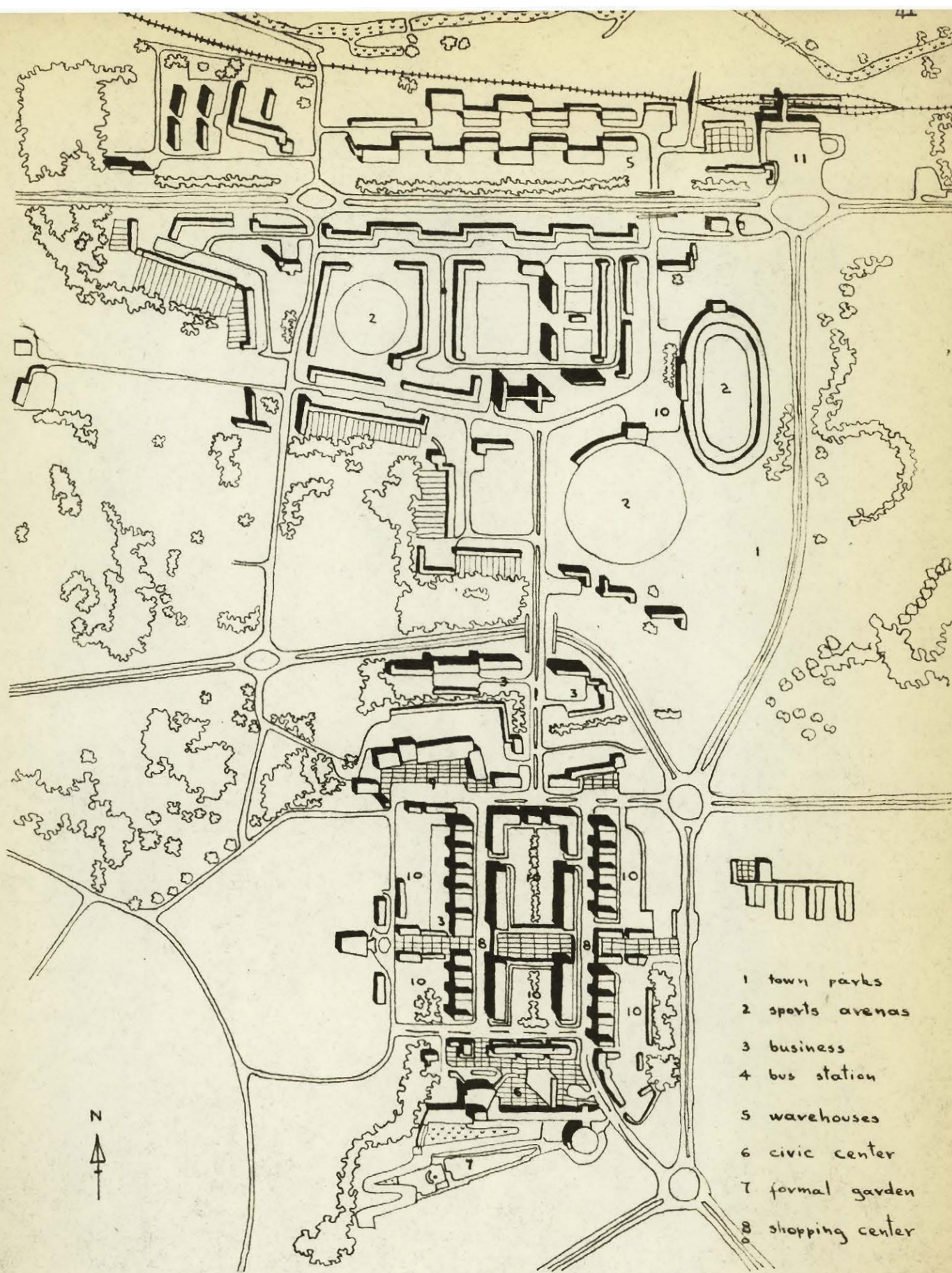
Major Residential Center

Sub Shopping Center

County College

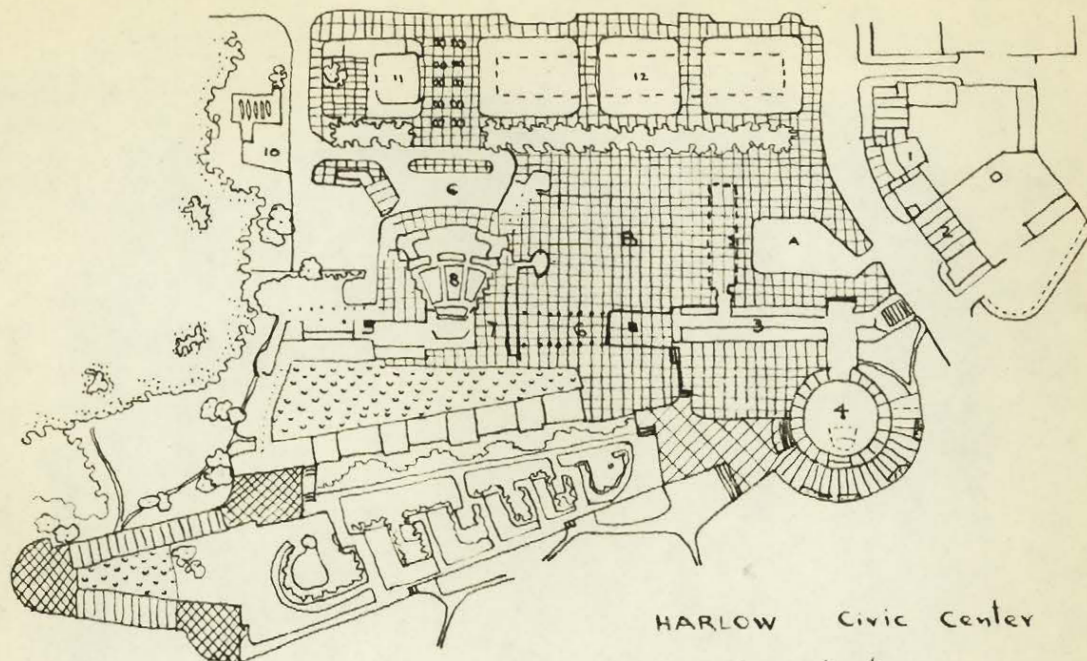
Secondary Schools

Primary Schools



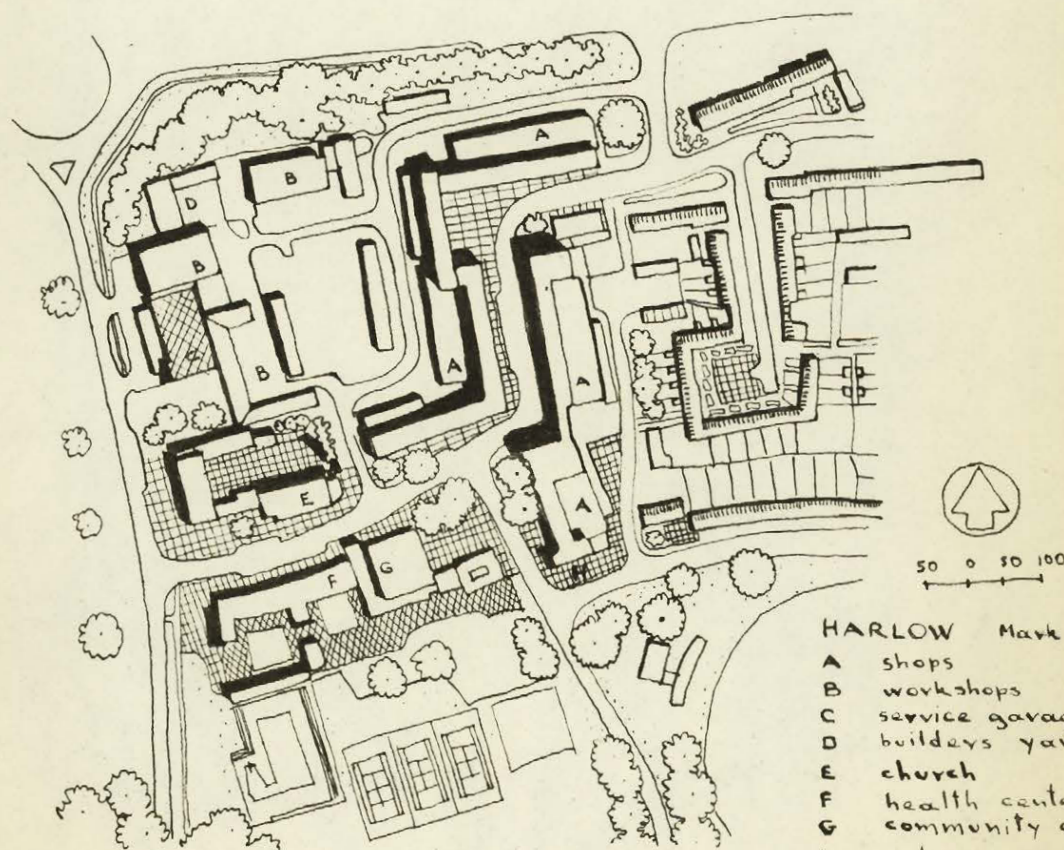
HARLOW proposed Town Center
 Fredrick Gibbert - architect

- 1 town parks
- 2 sports arenas
- 3 business
- 4 bus station
- 5 warehouses
- 6 civic center
- 7 formal garden
- 8 shopping center
- 9 market place
- 10 car parks
- 11 station



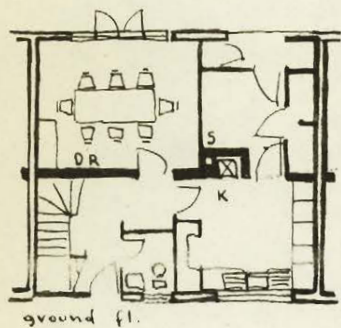
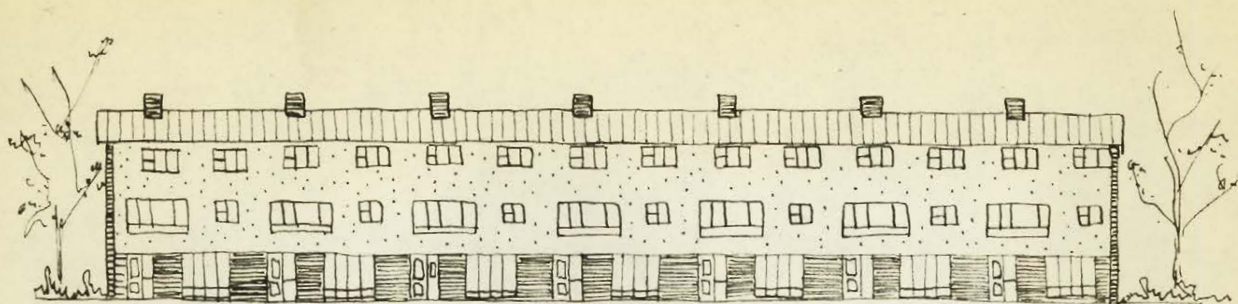
HARLOW Civic Center

- A administrative square
- B civic square
- C theatre square

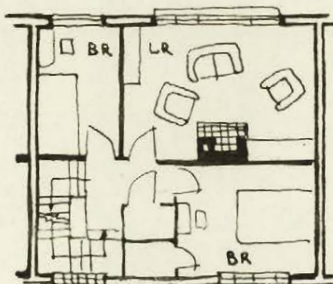


HARLOW Mark Hall Center

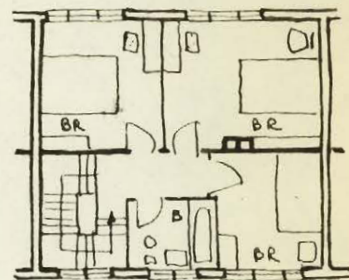
- A shops
- B workshops
- C service garage
- D builders yard
- E church
- F health center
- G community center
- H pub.



ground fl.

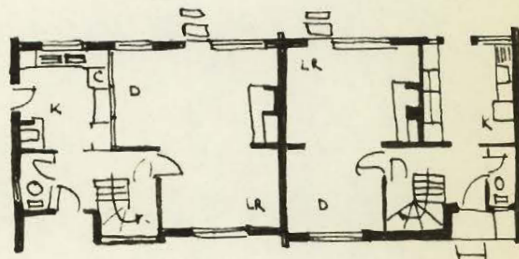
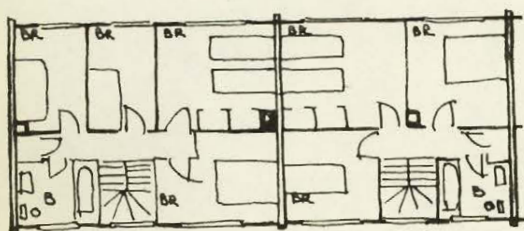
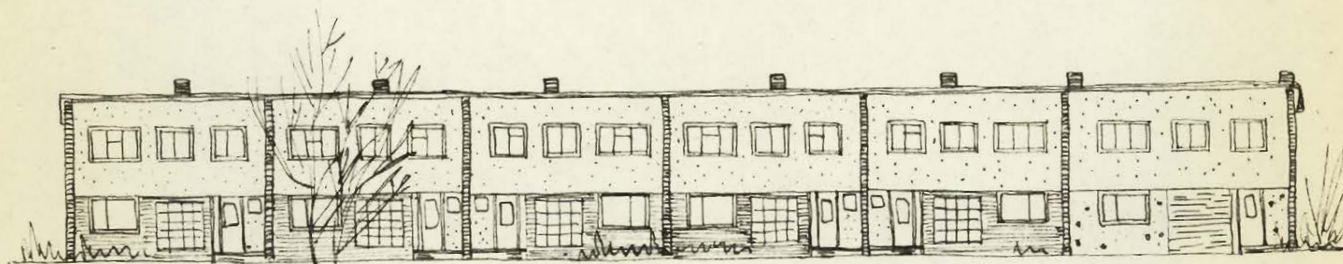


first fl.



second fl.

five bedroom terrace houses



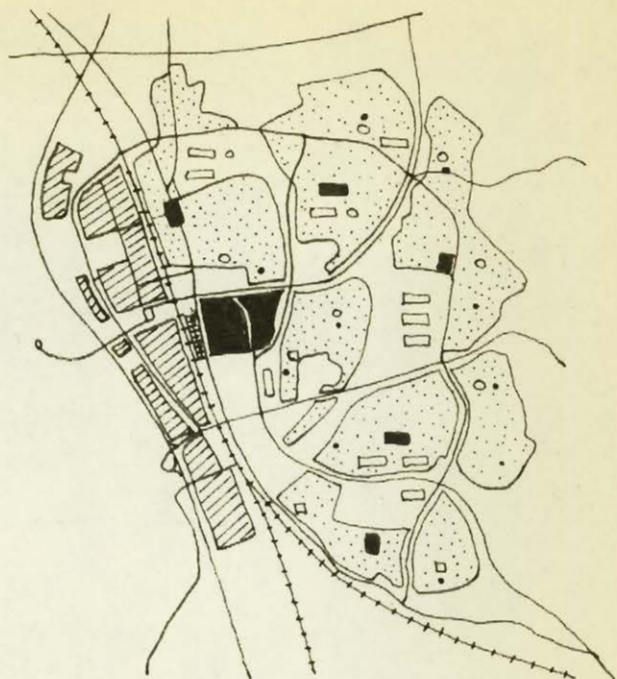
0 5 10

three and four bedroom terrace houses

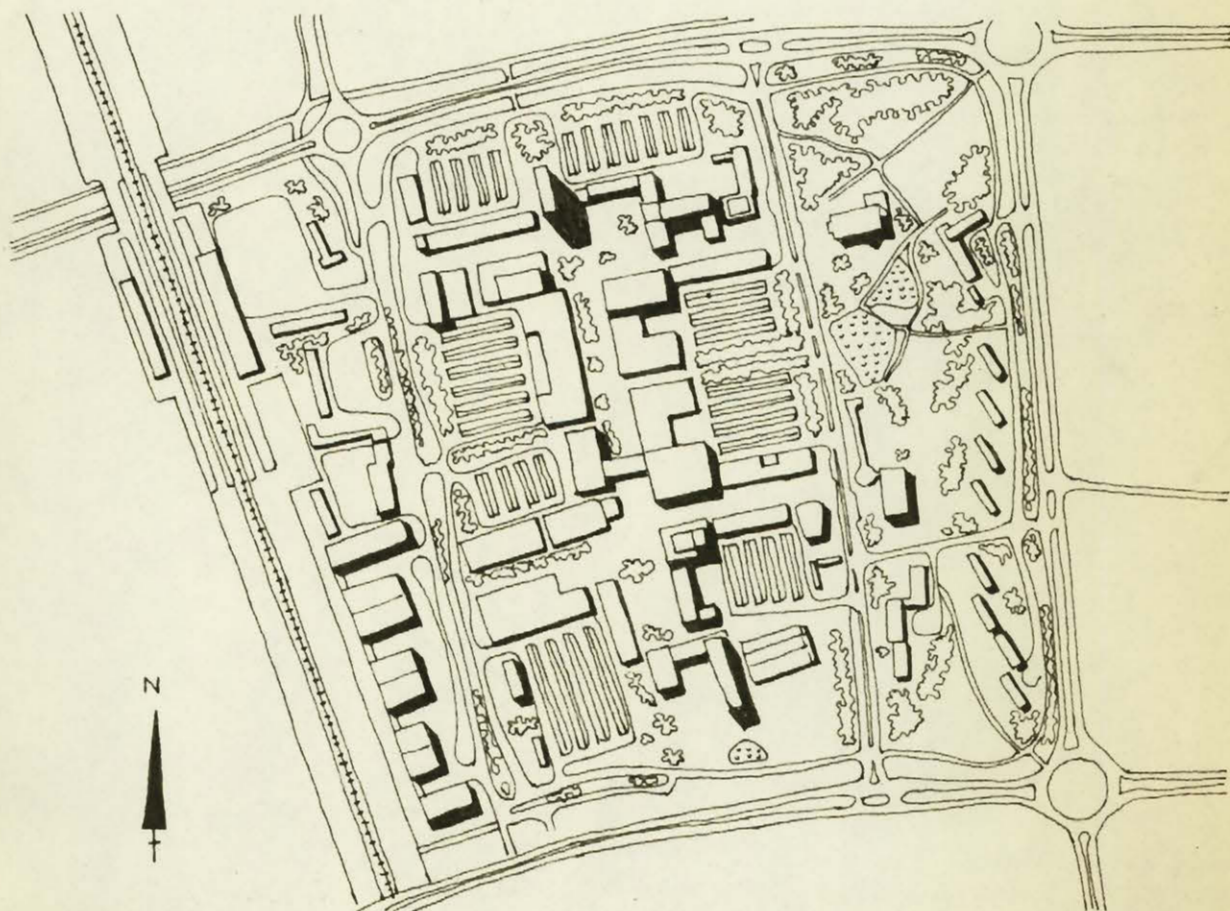
HARLOW

STEVENAGE

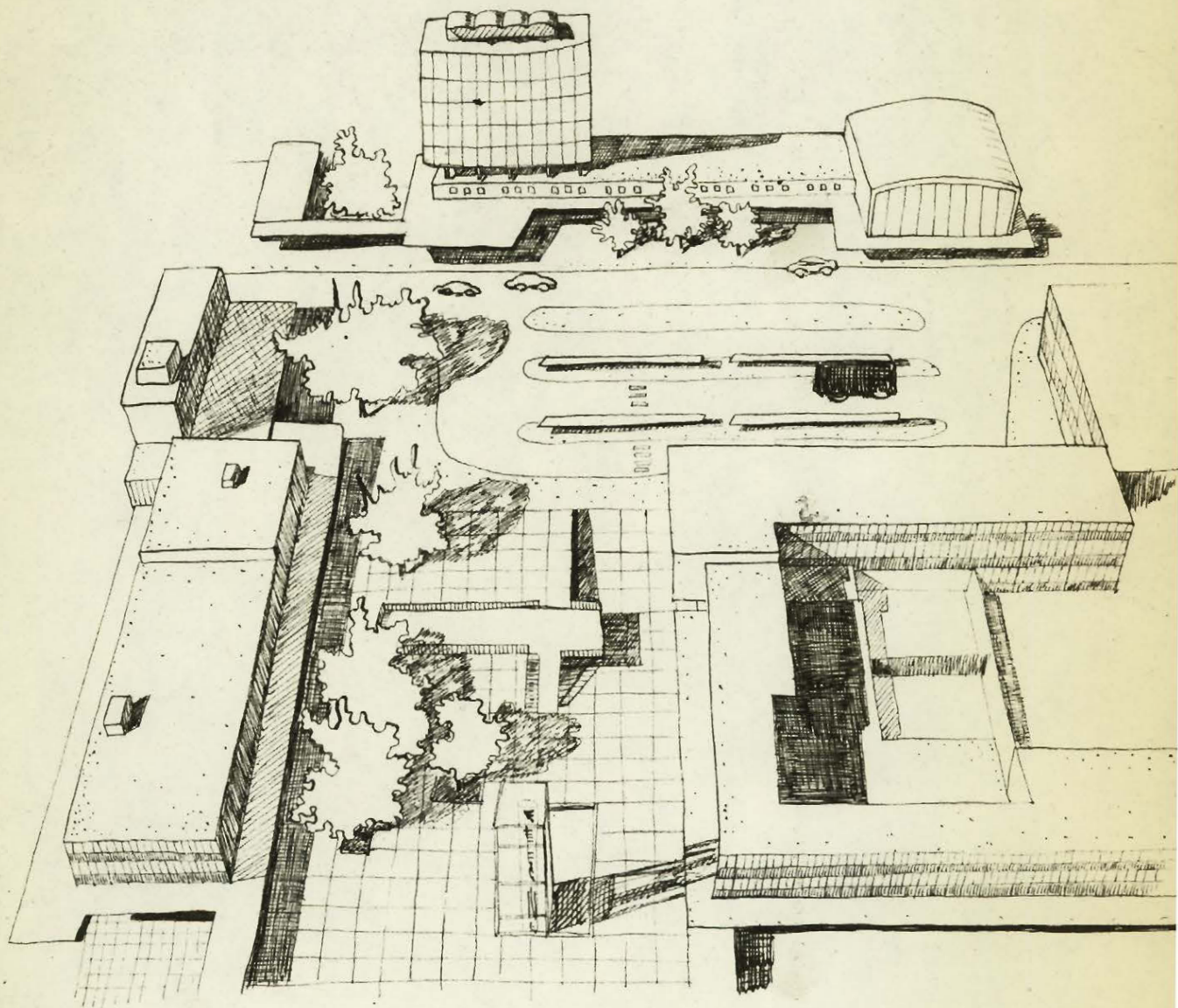
- Plan
- residential
 - industrial
 - warehousing
 - town centre
 - green areas



0 1/4 1/2 3/4 1 mile

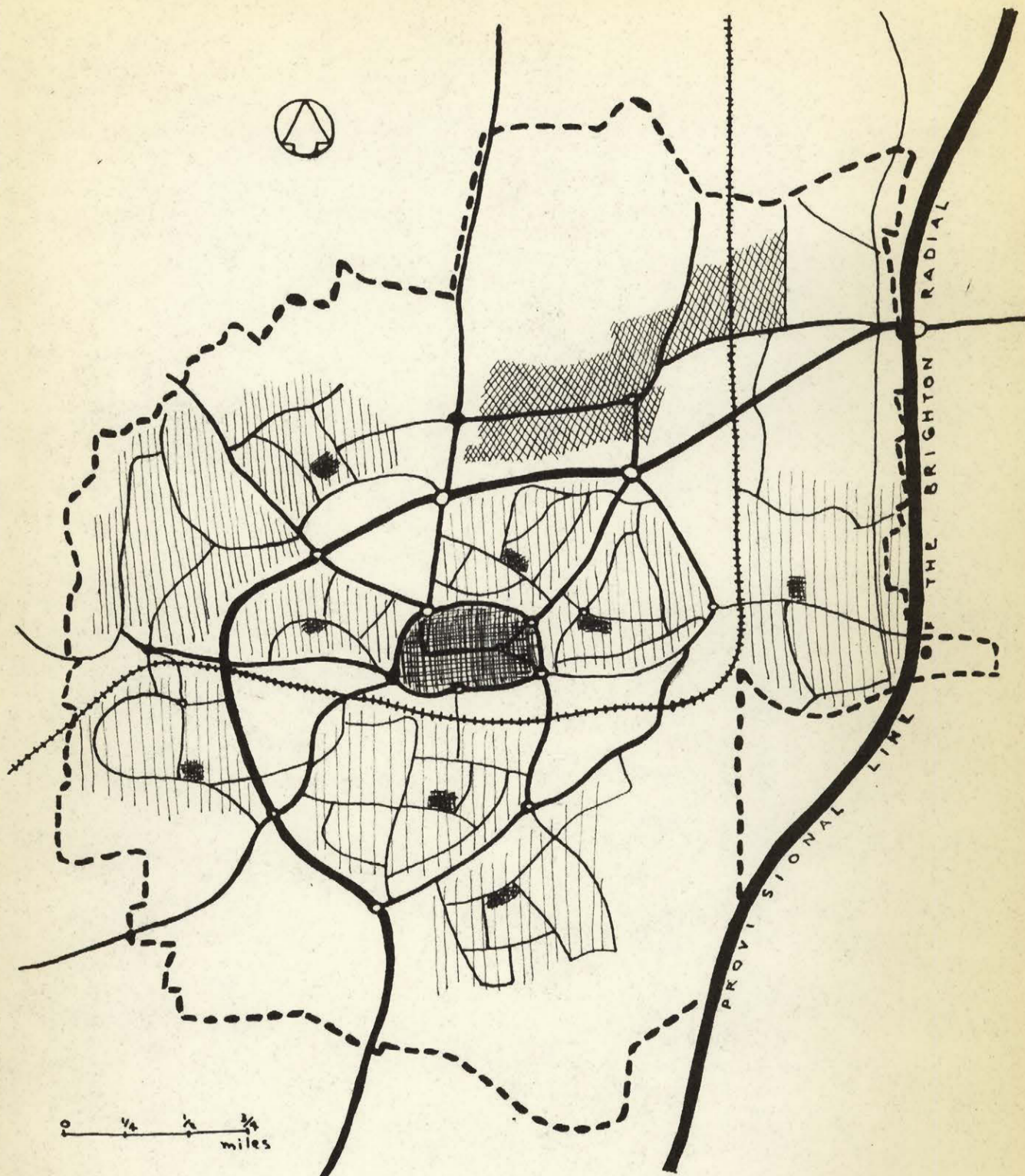


Town Centre

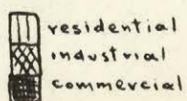


STEVENAGE

A section of the Town Centre



CRAWLEY, New Town



CHAPTER IV

PLANNING LAW IN CANADA

Introduction

Planning in Canada, as in the United States, is of a permissive and regulatory nature. The authority and responsibility of planning rest upon the local authorities. The latter are empowered to engage in planning activities by the provincial planning statutes, or in Quebec where no planning legislation has been enacted by the provisions of the Cities and Towns Act and of the Municipal Code. In practice planning shows the influence of both American and British methods. Following the American trend most planning statutes provide for the appointment of planning commissions or boards to carry out the planning function. They also provide for the legal adoption of the plan. Another influence of American techniques is in the field of zoning which in most cases is considered only as a means for preserving existing property values instead of as an instrument for effecting the best use of land and buildings.

Since the end of the war there has been an increase in the influence of British planning practices mostly due to the following reasons :

- a) the Canadian Constitution resembles the British one in which principles are found in a mixture of legal

rules and in customary practices. It allows for a more flexible system of planning than that possible under the American Constitution, the written words of which are the fundamental law of the country. The British techniques of planning are much more easily adaptable to Canada.

- b) a considerable number of British trained planners have emigrated to this country and their influence is slowly taking effect.

Among the examples chosen in Part II of this paper both Don Mills and Oromocto are close to British practices, following the system of positive development.

The Sources of Legal Power

The right to regulate physical development within their boundaries was given to municipalities in the vesting of powers in them upon their incorporation. They may exercise this right for the general purposes of preventing nuisance, and in order to safeguard the health, safety, convenience, morals and general well-being of their communities.

The British North American Act of 1867 has vested in the provinces the power to enact legislation with respect to municipal institutions and to all matters of a merely private and local nature. Planning statutes have been enacted in all provinces of Canada except

Quebec. They authorize municipalities, if they so desire, to acquire land for town planning purposes. These are limited to public works and normally include the provision for streets, public buildings, public open spaces and public utilities.

In Quebec, the municipalities may exercise control over physical development within their boundaries by virtue of provisions of the Municipal Code and the Cities and Towns Act which provide for the allocation of land for streets, public buildings, public parks and public utilities and for regulating the use of land.

In principle, the powers vested by the Municipal Code and the Cities and Towns Act upon the municipalities are similar to those contained in the planning statutes of the other provinces with the exception that cities and towns may prepare plans for streets and bring them into effect with greater ease than in other provinces through the procedure of homologation.

Scope of Planning Statutes

The powers vested by the Planning Statutes in Canada upon local authorities are of a purely permissive and regulatory nature. Their scope and procedures of administration are similar to those in Great Britain under the 1932 Town and Country Planning Act. They enable municipalities to undertake planning

functions within their territorial limits. Two or more planning authorities may combine for the development of a plan but each is financially responsible for its implementation within its own territory.

Following the pattern of accepted American practices, the Planning Statutes allow the establishment of semi-autonomous citizens' bodies in an advisory capacity to assist municipal authorities in the preparation of a plan. They prescribe the nature and contents of a planning scheme and the procedure necessary for its approval by the Provincial Authority and its adoption by the council. For the implementation of the plan they provide authority for the acquisition of land for planning purposes. They also provide for the preparation, adoption and administration of a zoning by-law, and for control over subdivisions. Yet all powers conferred on planning authorities by the Provincial Statutes are of a negative nature. They are all intended to prevent harmful development from taking place but not to foster positive growth. Local authorities wishing to exercise planning functions have to assume both financial and administrative responsibilities entailed in those functions. This makes it nearly impossible for small municipalities to embark upon any planning activities.

The Planning Authorities

Provincial Authority - The function of planning in Canada is vested by most Planning Statutes in the municipal authorities. Only certain controls may be exercised by the province. Generally provincial authorities have power to exercise some control over unorganized territory when local municipal government is not established. They may also exercise control over the planning functions of municipal authorities. Powers to do so are vested in most provinces in the Minister of the Provincial Government Departments delegated with the administration of the planning acts and entail the approval of a planning scheme and the variations and revocations thereof. In the provinces of Prince Edward Island and New Brunswick these powers are vested in a provincial planning board.

The duties devolving upon the Ministers in the administration of the acts involve the power to authorize the preparation of a planning scheme to define a planning area, to control the subdivisions of land, to approve planning schemes, etc.

The Minister of Planning and Development in the Province of Ontario is given greater powers. In addition to the duties mentioned above he is required to designate a planning area, approve the appointment of the Planning Board members, approve the appointment of the committee of adjustment members and the general

rules and rules of procedure of such committee, approve the acquisition of land for public purposes by a municipality, approve the designation of an area for redevelopment and the construction of buildings on it, etc.

It is up to the provincial authorities to ensure that technical standards and procedures followed by municipal authorities are in accordance with adequate planning techniques and in conformity with administrative requirements.

The Municipal Authority

The planning functions of most municipalities are carried out by semi-autonomous planning commissions or planning boards. The right to establish these commissions is contained in the planning statutes of the provinces which define them as advisory planning agencies to assist municipal authorities in the preparation of their planning schemes.

The function of the planning commission is a purely advisory one and pertains mostly to the preparation of a plan and a zoning by-law.

The commission consists of three, six or nine members appointed by the council who are not elected representatives, of members of the council on a proportional scale and of the mayor or reeve as an ex officio member. None of the members are paid for their services.

The reasoning behind the creation of a semi-autonomous body outside the organization of local government was the desire to keep planning above politics. But this attitude is not a justifiable one, showing non-confidence in the integrity of the elected representatives of the community. On the other hand, since members of the commission are appointed by the councils and councils are elected bodies, their choice can be influenced by political decisions. Most often, members of the commissions are real estate and technical people who are mostly interested in the aspect of planning that deals with the physical environment and not with the social and economic life of the people. Busy members of the commission have not the time necessary to acquire an understanding of planning and to keep pace with rapidly changing conditions and problems. Being an outside body, they do not know all the problems of the municipality. The attending members of the city council and the mayor or reeve are supposed to keep the Planning Commission informed on these, and on decisions and policies, but they do not often attend the Commission's meetings being extremely busy themselves.

Therefore, there is no true co-ordination between the two bodies, with the result that the planning function cannot be carried out effectively. The council, knowing the shortcomings of the commission does not give

it its due respect, looks upon it as amateurish and seldom appropriates sufficient funds necessary for the implementation of planning schemes.

Professor H. Spence Sales in his book on "Planning Legislation in Canada" reports the following :

"The semi-autonomous citizen planning commission is not fully satisfactory as a planning agency. It is neither carrying out successfully its prime function of preparing a plan for the physical development of the community it represents nor is it rendering profitable advisory services as it is ill equipped technically and administratively, is severely limited in its scope by financial restrictions imposed by councils and is not recognized by municipal officers, both executive and technical, as being an appropriate and capable instrument for planning purposes. Furthermore the safeguards provided in the planning acts for ensuring a proper execution of its advisory functions do not establish sufficient safeguards against the political pressures which may be exerted by councils".*

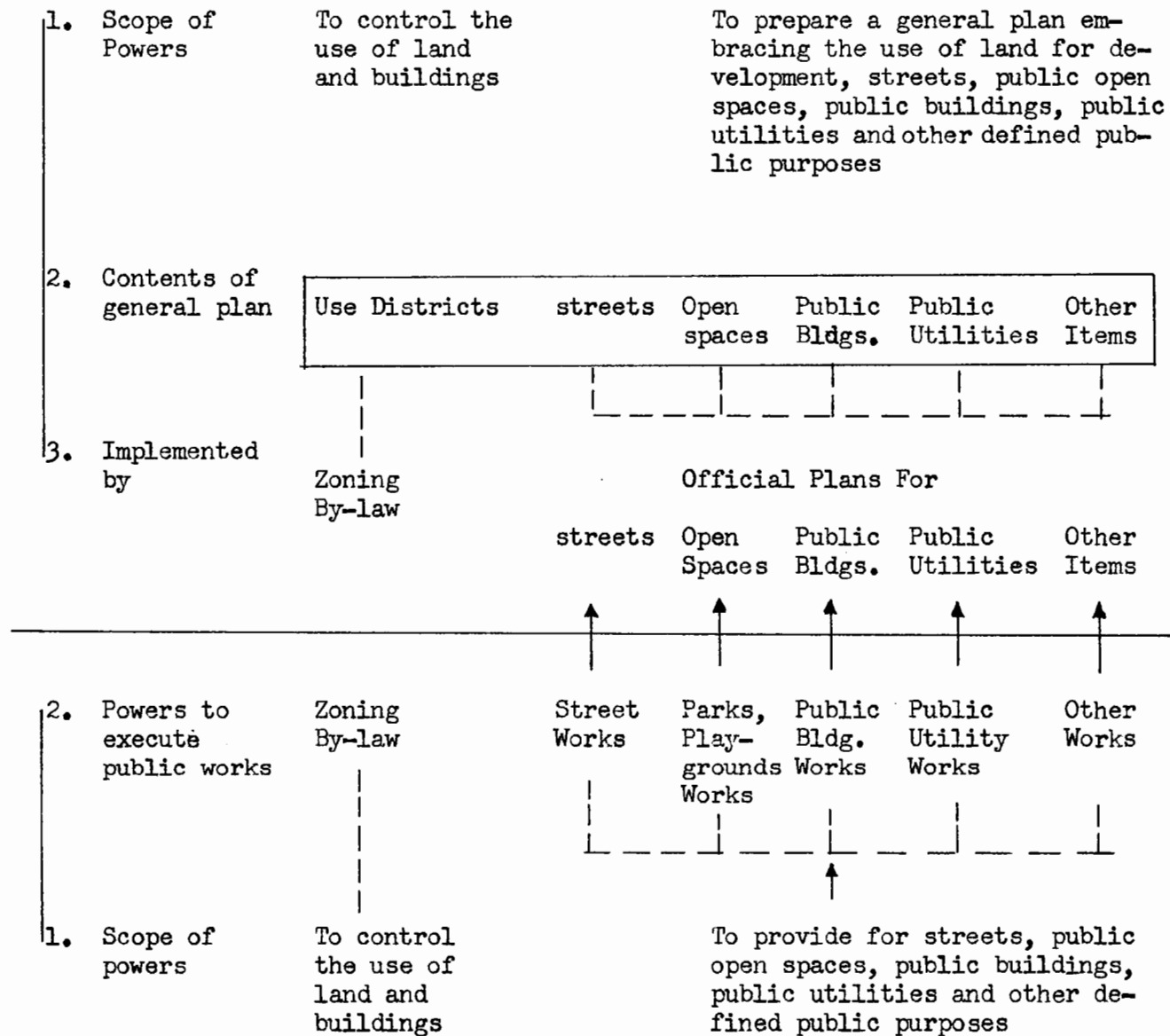
Planning by
Local Govern-
ment

As the shortcomings of the system of planning by commissions are becoming more evident there is a growing recognition for integrating the planning with the other responsibilities of local government. The following table** from Professor Spence Sales' book, "Planning

* p. 55

** p. 22

Legislation in Canada", gives us the relation of planning powers to managerial powers of a municipality.



Both in the United States and in Canada where the system of planning by commission is widely adopted, there is a movement advocating the replacement of the commission by a department attached to the office of the city executive. R. Walker in "The Planning Function in Urban Government" recommends that if planning is to function properly it must be a full-time activity of a planning staff with a permanent executive officer in constant touch with the mayor. The head of the department shall be an administrator with the same status as other department heads and hold office at the pleasure of the chief executive. In contrast the planner shall be a permanent official in charge of the technical work and immediately responsible to the non-technical head.

In the Province of Alberta in Canada, planning is accepted as a function of the local authority. The council has freedom to plan as it sees fit except in matters of metropolitan, regional or provincial nature. In general the acceptance of planning by local government is easier to achieve in Canada than in the United States where there exists a tradition of dividing the functions of local government among several semi-independent commissions in an effort to separate those functions from politics.

The Preparation of the Plan

The primary function of a planning authority is to prepare a plan incorporating policies with regards to physical development and specifically according to the planning statutes providing for the allocation of land for streets, public buildings, public open spaces, public utilities and for the control of use of land. The provisions of most of the acts prescribe that the plan shall be of such a type that upon its completion it will be capable of adoption and approval in its entirety. Consequently, the plan must be specific. The reason that the acts require the adoption of the plan by the council has been to make it binding upon the municipality. Yet such an attitude is justifiable only if local authorities are considered irresponsible.

The requirements to make the plan a legal document are harmful to the process of planning which is dynamic, not static. Professor Spence-Sales in "Planning Legislation in Canada" writes :

"It appears that the principle underlying the preparation of a general plan, and the advisory functioning which go with it are denied to planning commissions or boards and that it is instead the purpose of the acts to give to the plan prepared by the commission for the whole of the municipality, a statutory status which is binding until amended or revoked by by-law procedure".*

* p. 64

There are two kinds of plans :

- a. The official plan.
- b. The master plan or better, the general plan.

The official plan is of a limited nature. It deals only with considerations for the allocation of the land for public purposes.

It must be very precise in order to enable an authority to execute works.

Since implementation takes place in stages, official plans only have to be prepared for the areas under immediate consideration. Once adopted, they remain inflexible until revoked or amended.

The general plan has a much wider scope. Its function is to outline broad policies with regards to the best use of land based upon the study of economic, social and physical conditions. Since these conditions are subject to change, the general plan must be a flexible instrument and not a binding legal document passed by a legislative body. The plan provides a framework against which are viewed current proposals and immediate programs. R. Walker in his "The Planning Function in Urban Government" writes :

"The plan can never be completed. It can be set forth in tentative form from time to time but as standards of living, modes of transportation, industrial employment, concepts of social control and the char-

acter of local governmental problems in general change, it is clear that future plans must also change or become obsolete".*

A few recent practices in Canada show a tendency towards making the plan a flexible document. In Alberta planning powers can be exercised to implement a plan that has not been officially adopted. In New Brunswick the Town of Oromocto Act requires that the plan only make provision for development foreseeable in the next five years from the date of its adoption, and that it shall be revised at the end of that period.

The area covered by the plan is the whole or part of the municipality. Only for regulatory procedures over land subdivision is a municipality entitled to exercise authority beyond its statutory boundary. Several municipalities may jointly prepare a plan but each is responsible for the development assigned to its own territory. There is a great need for joint planning activity especially in areas close to urban centers where development may occur on the periphery, within an adjoining municipality or even in unorganized territory.

The Content of the Plan

A plan deals primarily with the use of land. It must contain provisions for the allocation of the defined public purposes over which the community may exercise powers of control, e.g., for streets, public

* p. 120

buildings, public open spaces, public utilities and dividing the land into classes for the purpose of regulatory control.

Approval of Plan

Conditions stated in the Planning Statutes for the approval of the plan are for the purpose of ensuring equity, to maintain certain acceptable technical standards and to establish the integrity of the plan by making it legally binding. To ensure equity the provisions of the planning Acts require that upon completion of the plan notice shall be given by advertisement in the press of the intention by the council to adopt the plan, of the time and place where the plan can be inspected by the public and of the time and place where written objections to the proposals will be heard and considered. Once these regulations are complied with the council can adopt the plan and send it to the provincial authority (in most cases the Minister) for approval. This last procedure ensures the maintenance of technical standards. Upon the Ministers' approval the plan becomes operative and legally binding.

The Implement- ation of the Plan

The implementation of the plan depends upon the acquisition of land, and upon the creation of a land pattern on which a local authority can exercise reg-

ulatory control.

The planning statutes empower the local authority to acquire land for public purposes.

The creation of a land use pattern entails the use of an administrative instrument called zoning.

Zoning

Edward M. Basset defines zoning as "the division of land into districts having different regulations".*

Zoning is a device to control the use of land. It was created through the demand for regulations to alleviate congestion, to ensure access of light and air and to prevent improper uses from entering into an area. There are two concepts of zoning; a) the theory of zoning as an instrument for the prevention of nuisances and b) the theory of zoning as a means for achieving broad planning purposes.

Zoning first appeared as a result of the common law of nuisances both in Canada and the United States but as the concept of the function of planning was broadened the meaning of zoning changed to include the effecting of wider planning purposes. Zoning today appears as a means for promoting the welfare of a community.

The nuisance theory of zoning depends on the preservation of existing property values by preventing

* "Zoning" by E. M. Basset, p. 9, New York Russel Sage Foundation, 1940.

non-conforming uses from entering into the area. But this concept makes zoning a static process, which is contrary to the scope of new planning ideas. A "nuisance prevention" type of zoning does not guide development in a positive way.

The Planning theory of zoning accepts it as an-instrument of flexible control assisting and guiding development to meet ever-changing conditions. Zoning is concerned with the planned use of land as a whole and is the instrument of implementation of an operative planning scheme.

In practice, both in Canada and the United States, zoning is generally accepted to be a static process aiming to preserve property values. This is explained by R. Walker to be a result of the personal interests of the people who brought planning into operation in the United States. Planning in that country started as an activity of voluntary citizens' organizations, the members of which were mostly real estate men and men of property. It was easier for them to visualize zoning as a means of preventing the deterioration of real estate values than as an instrument for promoting the general welfare of the community. Also, according to Walker, to compensate the same men, for the imposition of restrictions on the use of land, zoning ordinances allocated far more land for commercial and industrial

purposes than would ever be needed.

Most planning acts* of the Canadian Provinces provide for the preparation and approval of zoning by-laws distinctly separate from the preparation, approval and adoption of the plan, in order to enable municipalities to apply zoning regulations even if they do not possess a master plan. They provide for zoning to deal with the division of municipalities into districts for the purposes of regulating land uses and with the control of the height and bulk of buildings, the space about them and their lot coverage.

Local authorities are required to prepare a zoning by-law. Before its adoption by council the authority must hear and determine all written objections to the proposals. After this condition is met, the by-law can be approved by the council and becomes effective upon the approval of the Minister. Procedures for amendment are the same and just as cumbersome as the ones required for the initial adoption of the by-law.

Normally the zoning by-law is implemented by the issuing of a building permit. If an individual feels that he has been treated unjustly by the refusal of his building permit he has the right to appeal to a Zoning Board of Appeal where his proposals will be judged according to their conformity with the by-law.

* In Ontario zoning comes under the jurisdiction of the Municipal Act and not the Planning Act.

The provisions of a great many of the planning acts render zoning in Canada a very rigid device. They were conceived in order to safeguard the integrity of the by-law. Yet zoning does not fulfil its purpose as an instrument of implementation of a flexible plan unless it too can be flexible. Professor H. Spence Sales in his recommendations on zoning writes: "It is important that the nature of zoning as an elastic device should be maintained both in the description of use area and in the permissive and restricted entries that may be allowed therein".*

Obsolescence of zoning regulations often result in blight. Former high class residential areas deteriorate into rooming-house districts because large mansions of yesterday are uneconomical to maintain today due to high taxes, cost of labor and new conditions. It would have been better had they been reconverted into apartment houses.

The rigidity of most zoning in Canada is due primarily to the adoption of techniques and procedures from the American practice. This is unfortunate because the legal basis of Canadian by-laws is much more flexible than that in America. Canadian zoning powers rest on English common law whereas in the United States zoning regulations have been examined by

* p. 81 "Planning Legislation in Canada

the courts according to the State Constitution. In consequence, American regulations are quite specific.

Flexible zoning by-laws allow a certain degree of discretion to the planning authority and can still safeguard individual rights by providing adequate provisions for appeal.

In Ontario some flexibility has been introduced in the application of the zoning by-law by the appointment of a committee of adjustment to authorize minor variances to the provisions of the by-law, as long as these are within the general intent of the by-law and the official plan. This practice is only limited though to areas possessing an official plan.

The Province of Alberta, in 1957, revised the sections of its planning Act dealing with zoning powers. They permit the exercising of discretion both as to the uses permitted and as to the regulations applying to those uses. They empower the local authorities to deal with the requirements of particular situations by granting conditional consent. In order to prevent the arbitrary exercise of discretionary power the Act provides that an appeal can be made against each case where discretion was used.

Discretionary powers are also invested in the Board of Commissioners of the Town of Oromocto by the Town of Oromocto Act passed in the Province of New

Brunswick in 1956 which provides the granting of conditional consent respecting specific forms of development in a district.

When zoning is accepted as an instrument of planning it is just as much a creative as a restrictive device. It gives adequate development control to the planning authorities. At present, in most cities in Canada, application for building permits are not handled by the planning departments unless there is some doubt about them. But sometimes a project might not contribute to the sound development of an area and still comply with the regulations. It should be possible then for the planning authority to refuse a building permit. In Great Britain the 1947 Act prescribed that anyone wishing to undertake development must apply to the planning department for a development permit, and that no building permit shall be issued until a development permit is issued first. This system is slowly being introduced in Canada. The authority of a municipality to issue development permits is provided in the Planning Act of Newfoundland and in the Town of Oromocto Act. The New Brunswick Act requires that no building shall be erected unless its plans and location are approved by the planning commission. It is the beginning of the change from the idea of zoning as a restrictive device

to a positive concept of development.

Zoning
Techniques

Conventional zoning by-laws of North American municipalities permit more restricted use into areas of less restricted use. This results in mixed land uses often causing blight. The most restricted use is a single-family house area. No other use can enter here but there is no provision to prevent single-family houses encroaching upon an industrial district. Land occupied by dwellings in such an area is, on the one hand, withdrawn from its more effective use and, on the other hand, it obliges inhabitants to live under the most unhealthy conditions. Another feature of conventional planning is zoning by streets especially for commercial use. This results in an endless ribbon development which far exceeds the demand for shops and, in effect, consists of a certain amount of prosperous businesses accompanied by a far greater number of marginal ones. In recent years several zoning by-laws have overcome the above occurrences by specifically describing each use allowed in a district. No additional use is permitted. Commercial development is restricted in certain areas only and its extent is governed by the needs and the purchasing power of the population.

Zoning by-laws regulate the density in an area by

stipulating the allowable number of people, houses or habitable rooms per acre, or by establishing a "floor space index" which represents the ratio between the number of square feet of floor area of a building over the total area of the lot on which it is built. Floor space indices are preferable for zones where flexibility in height is desirable because they control the number of floors of a building. A structure with a small area per floor can go much higher than one with a larger area. Zoning by-laws regulate the bulk of buildings by requiring that a building shall only cover a certain percentage of its site and by prescribing the maximum height allowable. In recent years by-laws in Great Britain have attempted to regulate bulk with additional restrictions imposed by day lighting considerations. The "Proposed Zoning Resolution" for New York City, a study for rezoning New York, uses angles of light obstruction and units of light access to regulate the bulk of buildings.

Height regulations generally either specify a definite limit for an area or are based upon a relationship to the width of streets on which the buildings front. They are designed with the purpose of securing light and air and also of keeping the density of population within the traffic capacity of the street.

The Visual
Effect of
Zoning

Zoning by regulating the height, bulk and density of buildings has a direct effect upon the visual aspect of the physical environment. Height regulations in New York City with requirements for setbacks above a given level have resulted in a stepped design for skyscrapers.

Rigid enforcement of a fixed height on many streets often results in a dreary monotony, also in fake facades with parapet walls extending far above the true height of the buildings. By the exercise of discretion by the planning authorities and the introduction of the device of floor space indices, heights can be sufficiently varied to create the most interesting urban compositions.

Architectural control is introduced in zoning as being in the interests of the common well-being of the community. It ensures that the form of buildings is suited to the environment so that they become a part of a harmonious whole and not an isolated case. It applies not only to buildings but also to signs, advertisements, fences, etc. Skilful manipulation of architectural control can produce very pleasing results as will be illustrated in the second part of this paper when discussing actual examples of towns.

Acquisition of Land

In order to implement a plan, land needs to be acquired for public purposes.

The planning statutes provide for the acquisition of land for such purposes with provisions for compensation for any injuries effected and with procedures for determining claims and payment for amounts due for compensation or betterment.

They are still at the stage of the British 1932 Town and Country Planning Act. The requirement for compensation at fair current values of land is one of the greatest detriments to planning in Canada.

Current values especially in areas adjacent to urban centers include the "floating value" as described by the Uthwatt Committee in its report. Municipalities with low financial means are unable to pay the large sums of money required, and therefore are completely handicapped in the execution of their planning schemes.

Control of Subdivision

Control of subdivision in Canada in both organized and unorganized territory is mostly limited to the approval of subdivision proposals provided they comply with certain standards. There is a great need for more positive control especially as, since the war, the country is faced by a wave of urban expansion. The worst condition occurs in territory surrounding cities

and towns where agricultural land is subdivided into thousands of small lots without any overall scheme. In view of this situation the Province of Alberta Planning Act makes provision for replotting already subdivided land irrespective of the pattern of ownership in order to plan for future growth in a comprehensive way. To replot a municipality does not have to acquire the land. After resubdivision it is distributed among its original owners.

In the last years, as the scarcity of urban land became more acute, building has been spreading out into the countryside making it increasingly difficult for the municipalities to provide streets and services. Several planning acts provide for zoning by-laws to include clauses to the effect that development will be prohibited in a district unless adequate provisions are made for water, sewers, streets and other facilities, the local authorities may deem necessary.

Summary of Part I

Modern planning as a concept of a function of government only started developing in the beginning of this century. In Great Britain from the beginning planning was associated with the local authorities. In the United States it started as a movement of private voluntary organizations and later on be-

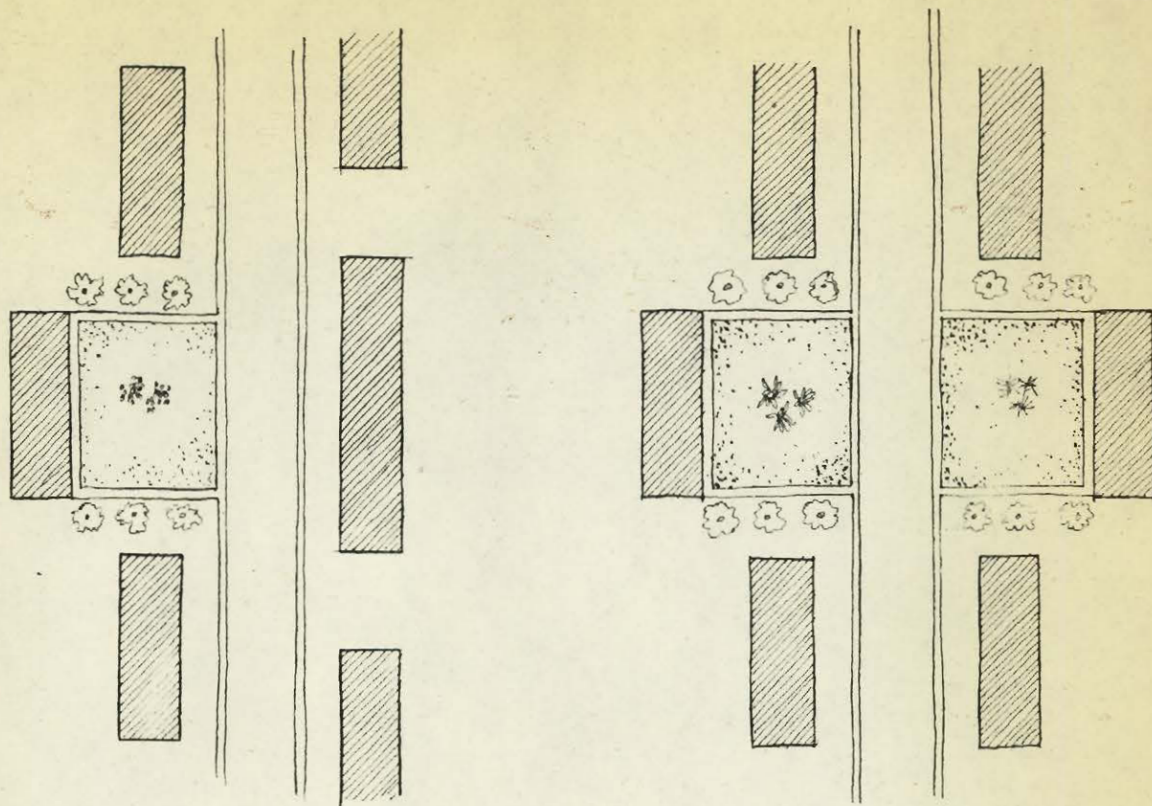
came the responsibility of semi-autonomous non-paid citizens bodies, the planning commissions. This system is also followed in most cases in Canada. Initially the nature of planning in all three countries was of a permissive and regulatory character. Municipalities were empowered to embark upon planning activities if they so desired and they were financially responsible for the implementation of their schemes. However the great scarcity of land in Great Britain aggravated by conditions created by the second world war caused planning to develop further in that country. Planning in Great Britain is now a national policy and is obligatory. Positive steps were taken in the legislature to enable local authorities to effect desirable development. The problem of compensation and betterment which was the greatest deterrent to planning by rendering the acquisition of land by public authority almost impossible, was overcome by the vesting of all development rights in the State. Government financial grants were made available for the use of local authorities for planning purposes. The need for decentralization of population and industry for economic, health and security reasons, resulted in the government undertaking the building of new towns.

This brought forth the application of the develop-

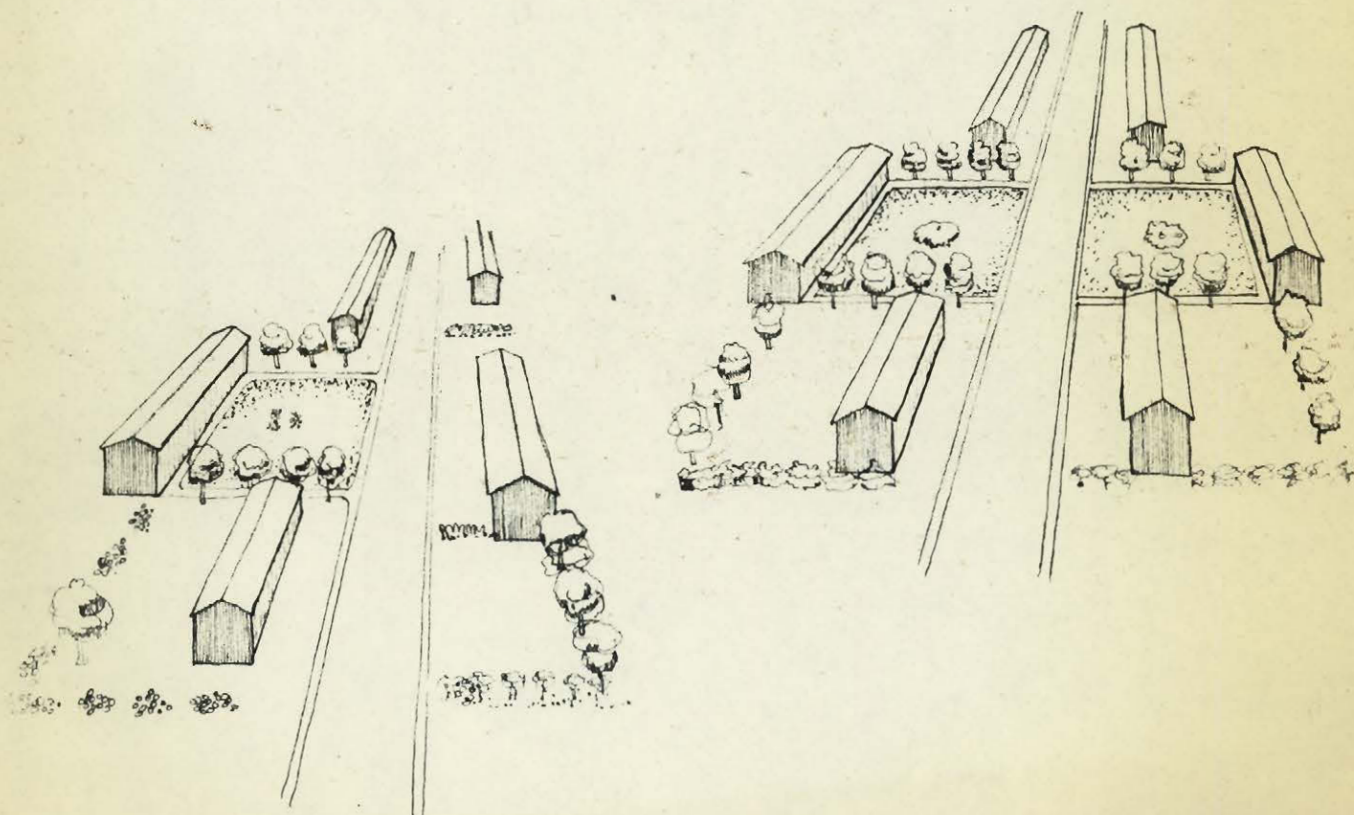
ment system where urban growth is not just guided by the planning authority but instigated by it and designed to be fully developed within a relatively short time.

No parallel movement in planning has appeared in North America. Planning legislation in both Canada and the United States is still at the level of British legislation before the war of 1939 and specifically at the level of the 1932 Town and Country Planning Act. It is still of a permissive and regulatory nature. Acquisition of land by public authorities is still hampered by the problem of compensation at speculative land values and by financial difficulties of the municipalities.

The period after the war in both countries was followed by a phase of great urban expansion which in Canada happened mostly in the form of urban accretion, and in a few cases in the building of completely new towns designed and executed by private enterprise or in special exceptional circumstances by Government. Examples of this phase in Canada will be discussed in Part II.



Variations in front setbacks create spatial interest in the street



Uniform Height
Zoning





Mixed Uses





Rigid Height Regulations result in
Forced Facades





Uncontrolled Advertising



PART TWO: EXAMPLES OF CANADIAN TOWNS

CHAPTER V

POSTWAR PLANNING ACTIVITY IN CANADA

Right after the second world war Canada experienced an unprecedented phase of expansion. The growth of industries spurred by the needs of war continued at a rapid pace during the first years of peace due to the financial boom and the great demand for consumer goods. This accelerated the movement of population to the urban centers. Since then the immigration policies of the country further increased the population by an average of one hundred thousand to two hundred thousand people a year, a great number of which have stayed in the cities. The resulting urban expansion has taken place in two forms;

- a) in urban growth by accretion
- b) in the creation of new towns as design entities by industry, by private enterprise and in special circumstances by the Canadian Federal Government.

This activity in urban development has not been supported by positive planning legislation on a national level the way it has happened in Great Britain during the same period. In Canada development

took place within the framework of existing provincial planning powers which are of a purely permissive and regulatory nature. A great deal of new development lacks urbanity. Subdivisions often run wild. Farms are often being built up without any adherence to an overall plan because municipalities are caught unprepared and do not even possess such a plan since this is not required by law. Provisions for parks and other public amenities are very inadequate. Lack of control over the design of buildings, advertising signs, fences, etc. have resulted in remarkable ugliness. Large cities have become surrounded by endless sprawl that devoured all neighboring municipalities and made them part of a large metropolitan mass. Under the conventional method of planning growth occurs by evolution and by accretion.

Etobicoke Township, Ontario, is an example of this type of growth discussed in this paper. It is a normal case of development of urban form under purely permissive and regulatory powers of planning legislation.

In the last years a few instances of new town building have occurred where a method of positive development is applied to achieve urban growth and form. Large capital funds were made available so that development could take place within a short period of time. Development is not just guided as under the conven-

tional method but instigated and undertaken by the developers whether the latter are private interests or local authorities.

Don Mills, Ontario, and Oromocto, New Brunswick are two such happenings. Both are designed as new town entities although Don Mills, due to its location within the metropolitan area of Toronto, was not able to be accepted as a separate unit of local government and constitutes part of the municipality of North York. This situation creates difficulties in the administration of planning which will be discussed in detail in the appropriate chapter. Oromocto, New Brunswick, is a new town created by the Federal Government in which methods of positive development are followed, backed by positive legislation. It is a unique case in Canada.

The study of the above towns involves an introductory look into the planning legislation of their respective provinces in the framework of which they were implemented.

Ontario Planning Legislation

Both Etobicoke and Don Mills are in the Province of Ontario and within the greater metropolitan area of Toronto.

The Department of Planning and Development of the province was established in 1944 and is responsible for

the administration of the Provincial Planning Act enacted in 1946. The nature of Ontario's planning legislation is, similar to that of the other Canadian provinces, purely permissive and regulatory. The responsibility of embarking upon planning activities and the financial involvement for their implementation rests upon the municipalities, but the Minister is given far greater powers than in most other provinces of Canada.

The Planning Authority

The planning act provides that any municipality or group of municipalities wishing to undertake a planning program may do so and their planning area will be designated by the Minister. The local council will then appoint a planning board, the duties of which, as clearly defined by the Act, include the investigation of physical, social and economic conditions of the planning area, the preparation of the official plan, the recommendations from time to time to the council to implement any of the proposals of the plan, the periodic review of the plan and the proposal of amendments thereto, the holding of public meetings, etc.

The Planning Board consists of four, six or eight members who are not employees of the municipality and of the head of the Council as an ex officio member. It may appoint any officers and consultants it may deem

necessary.

The Official Plan

As mentioned above an important duty of the Planning Board is to prepare an overall development plan for the planning area. Once the plan is adopted by Council and approved by the Minister of Planning and Development it becomes the official plan of the planning area. Any new development, or any redevelopment of existing areas, has to abide by the proposals of the official plan.

When a municipality possesses an official plan it can appoint a committee of adjustment, subject to the Minister's approval, to receive applications and authorize minor variations to the zoning by-law if, in its opinion, these do not interfere with the general intent of the by-law and of the official plan. This provides for flexibility in the zoning measures but can only be effected if the municipality is in possession of an official plan. The committee of adjustment is vested with discretionary powers to authorize minor changes from the provisions of the by-law. Also, in the event that the latter defines some uses in general terms only, it may allow any use that it considers within the intent of the by-law. Appeal against the decisions of the adjustment committee can be made to the Municipal Board.

Acquisition of Land

The Act empowers the municipality, subject to the Minister's approval, to acquire, hold or deal with land in any way it deems necessary for the purposes of implementing the official plan.

Redevelopment

In the field of redevelopment the Province of Ontario is making a positive contribution. If a municipality possesses an official plan it may, upon the Minister's approval, by by-law designate a redevelopment area within its boundaries, acquire and hold land in this area and prepare the site for redevelopment. With the approval of the municipal board, the municipality may, by by-law again, adopt a redevelopment area plan. For the implementation of the redevelopment plan the act empowers the municipality, subject to the Minister's approval, to construct buildings and deal with them in any appropriate way.

Subdivisions

The Planning Act empowers the municipalities to exercise control over subdivisions by requiring the registration of plans of subdivision when building lots are to be created. Such plans are approved by the Minister in consultation with municipal and other public authorities. The control of subdivisions is considered primarily a provincial matter.

In considering the draft plan of a subdivision, the

Minister is allowed complete discretion. He is required to pay regard to such matters as whether the plan conforms to an official plan, whether the proposed subdivision is premature or necessary in the public interest, whether the land is suitable for the purposes for which it is intended, whether utilities and municipal services are adequate, etc., but the Act does not provide for any regulations indicating what standards the subdivisions are required to meet nor does it clarify as to whether or not an unsuitable subdivision can be stopped from ever becoming effective. At no point is the word prohibited mentioned. The Minister considers only if a subdivision is premature. In practice, Ontario municipalities, unable to stop subdivisions have tried to delay them through prohibitive cost by requiring too high a standard of services. This is not a fair or happy solution and it has an adverse effect on the price of housing.

Land for
Public
Purposes

The Planning Act provides for the dedication of land for public purposes. The Minister may require that developers allocate for the above up to 5 percent of the land of the subdivision or in lieu of that make an equivalent cash payment to the municipality if an official plan is already in existence that indicates the location and amount of public land which will ultimately

be provided. Cash payments are not possible when a municipality does not possess an official plan.

Zoning

Zoning in Ontario does not come under the jurisdiction of the Planning Act but of the Municipal Act. Zoning by-laws are adopted by the municipal councils and submitted to the Ontario Municipal Board for approval. Procedures for amendments are the same as for initial adoption of the by-law.

Observations

The Ontario Planning Act does not allow for great flexibility in the Administration of Planning. Following the American tradition it establishes the Planning Board as the planning agency and thus creates all the frictions and disadvantages which arise from separating important functions from the local government and delegating them to semi-autonomous bodies. In its provisions for the official plan it seems to be more concerned with the plan as such than it is with the process of planning. Unless a municipality possesses an official plan it can hardly carry out any planning activities. It cannot properly control development because it is unable to appoint a committee of adjustment. It can neither designate any areas for redevelopment and engage in redevelopment activities, nor accept any cash payments in lieu of land required to be relinq-

uished by subdivisions for public purposes. It might be argued that the above requirements have been devised to make it imperative for a local authority to have an official plan, but a municipality can possess a plan which, although not official, can be a much more elastic and effective instrument of planning.

In the field of zoning some flexibility is allowed by provision for a committee of adjustment, but basically, zoning in the province is still a rigid instrument along the pattern of American practices with no provision for the exercise of discretionary powers by the planning authorities to grant conditional consent for non-conforming uses.

With regard to subdivisions we have previously mentioned that there are no clearly defined standards and that their approval is left to the judgement and discretion of the Minister. No satisfactory positive control is provided since subdivisions cannot be prohibited but only delayed for reasons of prematurity.

No provision is made for replotting already subdivided land, (except in an area designated for redevelopment) a measure extremely important in our times where speculation has divided the land around cities into a great many parcels and ownerships. Unless provision is made for replotting independently of owner-

ship, no local authority can make comprehensive plans for new development in such areas.

Planning on a regional scale is made possible by provisions in the Act for the establishment of joint planning authorities and of joint planning areas that may include several municipalities as well as neighboring unorganized territory, which in the Minister's opinion may constitute a planning unit.

In the Ontario planning legislation the Minister is given great authority and importance. It is he who designated a planning area and gives his approval to all the planning functions of the local authorities, from approving the appointment of the planning board members to sanctioning the construction of buildings in a redevelopment area. The Minister has to approve all draft plans of subdivisions and exercise his judgement as to their suitability and timing. With respect to any land that is not within the jurisdiction of a zoning by-law he is empowered to make and enforce zoning regulations. He has complete authority over unorganized territory. In general, the Minister is given ultimate control over all planning activity in the province.

To summarise; Planning in Ontario presents a very conservative picture. Influenced by American practices, it does not take advantage of the flexibility allowed within the Canadian Constitutional system and does not

provide an effective framework for the exercise of positive planning.

New Brunswick Planning Legislation

The character of planning legislation in New Brunswick is permissive and regulatory. Planning is the sole responsibility of local authorities, with the province retaining only an advisory role.

Municipal Authority

The Planning Act of New Brunswick is more flexible than is its Ontario counterpart. It gives the municipalities a choice either to exercise their planning functions within their units of local government or appoint a town planning commission.

If the council should appoint a town planning commission, the Act prescribes that it shall consist of three to fifteen members, whose duties will be to prepare an official town plan and a zoning by-law, to act in an advisory capacity in the implementation of the plan and the administration of the by-law, to advise in all matters pertaining to planning, to organize and hold public meetings and to promote interest in the amenities of the community and in any other of its assets of historic or other interest.

For the execution of its duties, the commission may

appoint consultants and other officers. Financially the town planning commission is dependent on the local authority to which it is required to present an estimate of its expenditure for the ensuing year and have appropriated the necessary funds for town planning purposes.

In the event that the council wishes to exercise the planning function within the local government, it is empowered by the Act to "prepare a plan or plans for development" covering the whole or part of its municipal territory. Such plan or plans are called, "The Official Town Plan". It is also empowered to make additions, extensions or alterations to the Official Town Plan, to prepare comprehensive plans for the development of transportation lines and to secure their adoption, to make provisions for streets, parks and other public purposes, and for public utilities, to prescribe the order in which development provided in the Official Town Plan will be carried out and the order in which public services will be provided and to make provisions for the method of financing any works or expenses involved for the implementation of the Official Town Plan.

The Official
Town Plan

The plan prepared by the Commission or the Municipal Council is described in the Act as "The Official

Town Plan". It becomes operative upon publication in "The Royal Gazette" of notice of its adoption, after adequate notification of the public of the intent to adopt such a plan and of careful consideration of all written objections to it. The Official Plan may be adopted, carried or revoked by by-law if necessary. Here again the Act allows for greater flexibility than is provided for by the Province of Ontario Planning Act.

Acquisition of Land

For the implementation of its plan the local authority is empowered to acquire land by purchase or expropriation and deal with it as would a private owner. It may subdivide, rearrange it or by by-law, dispose of it.

Zoning By-law

Zoning in New Brunswick is included in the Town Planning Act. The Act provides that a local authority may, by zoning by-law, make regulations pertaining to any or all of specific purposes such as dividing the municipality or parts of it into various use districts, controlling the height, ground area and bulk of buildings, the location of buildings on their lot, the lot coverage, the maximum density of population, etc.

In the field of architectural control the Act empowers the local authorities to regulate the architect-

ural design, character and appearance of buildings and states emphatically that the erection of any building which does not conform with the above regulations is prohibited. The Act is also quite positive in its provisions that the erection of a building is prohibited in an area until provisions have been made, to the satisfaction of the local authority, for its servicing by sewers, water, transit, etc. It is left to the discretion of the local authorities to decide what services are deemed necessary thus enabling them to adjust requirements to suit particular situations. This is a very fair provision allowing for flexibility of application on one hand and adequate protection of the interests of the local authorities on the other. Regulations must be elastic enough to apply to all situations. On the other hand premature development should be prevented from imposing undue hardship on the municipality for the provision of public services.

Procedures for appeal against the zoning regulations are provided by the Act in the creation of a Zoning Appeal Board the decision of which is to be final.

A municipality may pass a zoning by-law after publishing twice, in a newspaper of the area, its intention to do so and appointing a time and place for the inspection of the by-law by the public and a time and place set for consideration of any written objections

thereto. After the by-law has been passed, any amendment to it or repeal has to follow the same procedure except that only the owners of the properties affected by the proposed amendment or repeal must be consulted.

Subdivisions

Powers for control of subdivisions within the area of their jurisdiction are vested in the local authorities by the requirement that no subdivision plan shall be filed until it has been approved by them. The local authorities may make regulations respecting subdivisions. They may also alter or amend by resolution any existing subdivisions after publication of notice thereof. But under provisions of the Act adequate control over subdivisions cannot be exercised by the governing body of a municipality that has not appointed a planning commission. If there is no planning commission a transaction can take place with respect to any lot of a subdivision even if the plan of such subdivision has not been filed in the Registry Office. This is an unfortunate provision in the Act. While in its previous clauses re the preparation of the Official Town Plan and of the zoning by-law it enables the municipality to exercise its planning function without the appointment of an advisory semi-autonomous body, for the more complete exercising of control over subdivisions,

it requires the existence of a planning commission.

Approval of Building Plans

Generally, in the Provinces of Canada, the administration of the zoning by-law and the granting of building permits are the sole responsibility of the building inspector. Only under unusual circumstances where special consideration is required, are building plans referred to the planning agency. Consequently, the latter has very little control over the form and architectural expression of the greater part of development that takes place.

The Planning Act of the Province of New Brunswick corrects this by providing that the location and plans of any structure to be erected shall require the approval of the Planning Commission. Through the above and also through the provisions of the zoning by-law for controlling the architectural design, character and appearance of buildings, the planning commission is given a positive instrument towards controlling the form of new development.

Provincial Authority

The role of the Province, as far as the planning activities are concerned, is mostly advisory. The power to exercise control over the planning functions of municipalities is vested by the Town Planning Act in a Provincial Planning Board which may be set up by the

Lieutenant Governor in Council. It consists of six to twelve unpaid members and its duties are to promote planning activities in the province, to stimulate the appointment of a commission by the local authority, to assist and advise local authorities, to collect information on Town Planning schemes, to suggest ways and means for the creation of provincial parks and reservations, to conduct research and suggest a program for the preparation of an official Provincial Plan "for the comprehensive and economic and physical development of the Province".*

Control over highway development and over subdivisions outside the organized territory is vested in the province. The Provincial Planning Board may make regulations covering the above in which case all subdivisions of such areas require its approval prior to their registration. The scope of the regulations is clearly specified by the Act.

Subject to the approval of the Lieutenant Governor in Council, the Board is empowered to require municipalities to conform to an Official Plan or zoning by-law enacted by them. It may oblige any local authority not possessing an Official Plan to prepare one if it considers this to be in the public interest. If the Board finds that the local authority does not comply with its requirements, it may appoint five of its members on an

* Town Planning Act 1952, Part IV, Sec. 38 (f).

advisory board to exercise the powers of the Act on behalf of the authority and it may employ consultants and any other officers necessary.

Observations

The Town Planning Act of the Province of New Brunswick shows the influence of both British and American traditions. It allows the planning function to be exercised either by the local authority or by a planning commission. It begins with a very positive definition as to what a local authority is empowered to do if it chooses not to appoint a planning commission, but its tone becomes more hesitant when it comes to the control over subdivisions* and it definitely shows a preference for the American tradition of appointing a separate planning agency when it states as one of the duties of the Provincial Planning Board, "to stimulate the appointment of a commission by the local authority in any area where no commission has been appointed."** With respect to requirements for the Official Plan, the Act is again quite flexible. The Plan may be adopted by by-law but this is not a prerequisite for its effectiveness. The procedures for its adoption, amendment or revocation are fairly simple and do not require the sanction of the Provin-

* see paragraph on subdivision p. of this paper.

** Town Planning Act, New Brunswick, Part IV, section 38, p. 16

cial authority. The same is true for the corresponding procedures applied to the zoning by-law.

With regard to the scope of a zoning by-law, the Act is quite specific. In addition to other regulations, it allows for architectural control, which is very important for the creation of an aesthetic environment. Without provision for such control a municipality is unable to exercise any authority over the appearance of its buildings. Further powers of regulating the form of development are vested in the Planning Commission which must approve the location and plans of all buildings.

The zoning by-law as prescribed by the Act is rigid and inflexible in its provisions for the uses allowed in the various districts. No allowance is made for the exercise of discretionary powers by the planning authorities in the granting of conditional consent. Here again, the Act follows American practices.

No adequate provision is made for regional planning. There are no regulations pertaining to the setting up of joint planning authorities and the designation of joint planning areas as are included in the Province of Ontario Act. The Provincial Planning Board is required only to suggest a program for the preparation of an official provincial plan for the comprehensive development of the province.

New Town Legislation

The creation of a new town presupposes positive planning methods by which urban development can be effected within a relatively short period of time. The planning statutes of the Canadian Provinces vest permissive and regulatory powers in the planning authorities, powers which only allow for the guiding of development but not for the actual carrying out by the authorities of projects provided for in the adopted plan. Special legislation is needed to create the necessary powers, in the same manner in which the 1946 New Towns Act was enacted in Great Britain to make provisions for the execution of the postwar New Towns program.

Any New Town Legislation must first deal with the setting up of a governing body to act for the town and to instigate the growth of urban development. Then it must deal with the devolution upon such a body of wide powers so as to allow it not only to regulate but also to undertake development if it considers this to be in the interests of the town.

The creation of new towns through planning is a positive step in itself and requires to be supported by positive legislation in order to succeed. It is imperative that provision be made for adequate allocation of funds to cover the high expense of initial develop-

ment since land needs to be acquired and a great number of municipal services must be provided and other works executed before any taxes can be collected.

No new town legislation has been enacted in the Province of Ontario. New development takes place within the framework of the provincial planning statute. In the Province of New Brunswick, New Town Legislation was introduced in the passing of the Town of Oromocto Act in March 1956.

The Town of Oromocto Act

The Source of Powers

The Town of Oromocto Act contains the legal powers by which the new town of Oromocto is able to control development after the establishment of the municipal area plan and also to carry out any development provided for in such plan. It deals with government, planning and development and legal generalities.

Town Government

The Act first incorporates the Town of Oromocto and then proceeds to establish its governing body - a Board of Commissioners-in which it vests the administration of all fiscal and municipal affairs and the whole legislative power and government of the town. The Board of Commissioners consists of a chairman and six commissioners appointed by the Governor-General in

Council and the Lieutenant-Governor in Council. It is required to perform all the duties and functions of a town council.

Planning and Development

The function of planning is vested by the Act in the Board of Commissioners. They are empowered by by-law to adopt for the municipal area, a master plan, plans of development lines and a control scheme; also to adopt for the designated areas a designated area plan and a control scheme; and to make regulations with respect to land subdivisions in both the master plan and the designated areas.

Procedures for adopting, revoking or amending the above are simple. The Board has to give notice of its intention to adopt, revoke or amend a plan, control scheme or subdivision regulations by advertisement inserted at least once a week for two successive weeks in a local newspaper and arrange a time and place for the inspection of the above and for the consideration by the Board of written objections. The first notice is to appear at least two weeks before the day fixed for the consideration of objections. This procedure is far less time consuming than that required by the Provincial Town Planning Act which stipulates that the first notice has to appear in a newspaper at least eight weeks before the day fixed for consideration of objections. In every

way the Town of Oromocto Act endeavours to ensure that the planning process will remain flexible and easily adaptable to new conditions.

In establishing the scope of the municipal area and the designated area plans the Act requires that the plans provide only for such development as might reasonably occur within a period of five years from the date upon which the plan took effect. At, or before the end of this time the Board of Commissioners is required to revise the plans in accordance with development foreseeable within the next five years. Thus the Act requires the plans to be realistic as well as flexible.

Economic and social conditions change very quickly in our industrialized civilization and it is extremely difficult to predict precisely what conditions will be in the distant future. Not only the requirements of the plan of the town might change but even the amount of area limited by its boundaries.

The Act enables the Lieutenant-Governor in Council to enlarge or reduce the boundaries of the town on the recommendation of the Board of Commissioners. It ensures that planning in the new town remains a fluid, elastic process, adaptable to new conditions and capable of adjustment in the interest of the development most beneficial to the town.

The Plans

The contents of the plans are clearly specified. Mr. H. N. Lash, in a paper dealing with planning legislation in Ontario and Alberta points out the importance of the precise definition of the scope of a plan in legislation. "A good definition tells the council how far it may go in implementing the plan, be it by zoning, re-development or subdivision control. This is particularly important where the implementation conflicts with the traditional common law rights in private property. When this conflict occurs, the municipalities' actions must be buttressed by the explicit detail of the legislation at every turn".*

The Municipal Area Plan

The municipal area plan of Oromocto is made up of three parts described in the Act as follows:

- (1) A plan illustrating the network of streets, location of public buildings, location of public open spaces and the general uses of land.
- (2) A schedule of public works relating to streets, public buildings, public open spaces and utilities.

* H. N. Lash, A.M.T.O.I.C., "Planning in Ontario and Alberta. Comparison of Legal and Administrative Systems". June 1958, p. 5

- (3) A program setting forth the order in which the development provided for in the municipal area plan is to be carried out and to be supplied with water, sewerage and other facilities.*

Plans of Development Lines

These plans are of a more specific nature than the municipal area plan. They show details with respect to lands required for new streets, for additions, or alterations to existing streets, for public open spaces, for public buildings and for public utilities.

The plans of development lines have to be consistent with the municipal area plan.

Designated Areas

The Act makes provision for the Board of Commissioners to protect the town from haphazard development outside its municipal boundaries by exercising control over areas outside the limits of the town but extending not more than three miles from those limits. To designate such areas the town must apply to the Provincial Government for permission to do so and requires the approval of the Lieutenant-Governor in Council.

The Town of Oromocto Act calls for the adoption of

* Town of Oromocto Act, Part II, item 25, p. 10

a plan and a control scheme for the designated areas.

Designated Area Plan

The designated area plan contains two parts which are described in the Act as follows:

- a) a plan illustrating the general pattern of streets, public open spaces and uses of land.
- b) a program setting forth the order in which the parts of a designated area may be developed.* Since the designated areas are not within the municipality their plans differ from the municipal area plan in not providing for any public works.

Control Schemes

A control scheme is one of the most important administrative instruments for the implementation of the municipal area plan. It is similar to a zoning by-law, yet the latter term carries certain associations with it that do not apply to the control scheme. A zoning by-law, as generally understood in Canada and the United States, is a static administrative tool, the principal aim of which is to maintain existing land uses in order to protect property values. In contrast, a control scheme is an elastic instrument of control, with a limited life and can be adjusted and amended. Its aim

* Town of Oromocto Act, Part II, item 28, p. 11

is to assist and guide development and to control its expression in the best interests of the town.

The Town of Oromocto Act specifically states the scope of the control scheme. It must provide for the division of the municipal area plan and the designated area into districts and specify the uses allowed in each. It must regulate the density of population, lot sizes, coverage, space about buildings; control their architectural design and appearance and quality of exterior materials; control the cutting of trees and prescribe a program for their planting and maintenance, etc.

In order to prevent the town from facing financial hardship due to the undue spreading out of services, the control scheme prohibits the erection of a building in a district until arrangements are made in respect to provision for streets, water, sewers and other facilities. Before developing land within a district, permission to do so is required from the Board and a certain fee must be paid upon the making of an application. This is one of the very few instances where a development permit is required in Canada.

No development of land and no erection or alteration of a building is allowed in the Municipal Area or in the Designated Areas without the approval of the Board.

The control scheme makes provision for the granting of conditional consent respecting specified forms of de-

velopment for a district for a limited period of time, at the end of which the land, is restored to its former state. Conditional consent permits the Board to exercise discretion as to the uses permitted in a district without the need for introducing an amendment to its control scheme or to the municipal or designated area plans. Especially in a new town there are several uses of land and buildings necessary at a certain stage of development which will not be required later on when growth will be more advanced. For example, a local store or a gasoline station might be needed to serve the first group of dwellings which later on will be taken care of by the facilities provided in the commercial center.

In addition, the Act, endeavouring to create conditions conducive to flexible and efficient planning, allows the Board, at its discretion, to include in the control scheme regulations over "any other matter that affects or may affect orderly development". *

Trailer Camps

The Town of Oromocto Act empowers the Board of Commissioners to exercise control over trailers and trailer camps within the municipal area and the designated areas. Trailer camps are inevitable in a new

* Town of Oromocto Act, Part II, Section 29, (1) p.12

town where demand for housing greatly exceeds the supply. They are accepted as a use and occupancy of land, subject to a control scheme which provides for their licensing and regulating both in the municipal area and the designated areas. Trailer licenses are given for a period of not more than twelve months and for a specified location only.

Subdivisions

Control over subdivisions in the Municipal Area and the Designated Areas is secured by the requirement to obtain the approval of the Board of Commissioners before their plans are filed in the county registry office.

Procedures for the submission to and approval by the Board of such proposals are included in the regulations made under Section 19 of the Town of Oromocto Act. These regulations also contain provisions relating to the form and density of development to requirements as to size and shape of blocks and lots, to requirements for land reserved for public purposes and to requirements as to width, location and gradient of streets and access to existing streets and highways.

Acquisition and Disposal of Land

With regard to the acquisition and disposal of land, the Act provides that the town may at any time acquire by purchase, expropriation or otherwise any

land which, in the opinion of the Board of Commissioners, is necessary for the carrying out of development provided for in the municipal area plan. It empowers the Town in its dealings with and disposal of land or other property in its ownership, to act as if it were a private owner and to deal with it in whatever way the Board may require or deem advisable.

When land is expropriated the former owner is entitled to compensation amounting to the fair value of the property. Provisions are made for arbitration if the owner and the Board of Commissioners fail to agree upon a fair valuation.

No compensation is due by reason of the adoption of the municipal area plan, designated area plan or a control scheme, unless an owner's land is severed by expropriation and the remaining part is reduced in value as a result.

Observations

The Town of Oromocto Act is based upon the system of positive development evolved in postwar planning legislation in Great Britain and brought to a climax in the 1947 Town and Country Planning Act. It is a skillful adaptation to the Canadian scene of advanced British planning methods. It ensures that planning will be a direct function of the local authorities upon which it devolves powers of development and of discretion. It

shows confidence in and relies on the integrity of the Board for the efficient administration of planning to further the orderly growth of the town.

The Town of Oromocto Act accepts planning as a dynamic and not static process, fluid and elastic, always capable of adapting itself to new economic, social and other conditions that may arise.

The plan is required to provide only for development which might reasonably occur within a limited period of time and specifically within five years. The introduction of the time element in the planning process does not usually appear in the planning acts of Canada or the United States where the plans cover as much of a development area as the planning authorities may wish to show. The precedent for it is found in Great Britain where the Minister of Town and Country Planning has suggested that development plans shall only show firm proposals which seem likely to be carried out within twenty years.

The plan of Oromocto as prescribed by the Act is realistic and flexible. It is mandatory for the local authority to revise the plan on or before the expiration of the five year period, in accordance with development that can be foreseen for the next five years.

The Act also creates the control scheme of the Town of Oromocto as a flexible instrument. It relies

on the local authority to exercise discretion over interim development and give it its conditional consent.

Thus the Town of Oromocto Act sets up the powers and the legal framework within which the town can develop in an orderly and positive way under the direction of its local authority.

CHAPTER VI

ETOBICOKE TOWNSHIP, ONTARIO

Introduction

Etobicoke Township is a flagrant example of urban growth by accretion. Since 1947 its population has increased two hundred and sixty-five percent from twenty-eight thousand, two hundred and fifty-eight, to one hundred and three thousand, one hundred and forty-six, in 1958. This is due largely to its location next to industrialized Toronto which has experienced an unprecedented growth in the postwar years. Both industry and population overflowed from the congested City into the adjacent townships.

Etobicoke used to be one of the better residential suburbs. Its excellent location with respect to highway and railway transportation made it particularly attractive to industry. It has a very large area of twenty-seven thousand, seven hundred and thirty-five acres and is located on the west side of the City of Toronto. When in 1952 the Municipality of Metropolitan Toronto was created, Etobicoke became one of its thirteen members.

Planning
Activity

Etobicoke prides itself on being the first Ontario municipality to take advantage of Provincial Planning Legislation. Under this statute it appointed a Planning Board in 1946 primarily for the purpose of determining industrial requirements and reserving suitable areas.

Its foresight in this respect made it more inviting to industry when the latter sought new sites outside but yet close enough to Toronto.

The Planning Board

The Etobicoke Planning Board consists of four unpaid members appointed by the Council and of the reeve as an ex officio member. Its role is to advise the Council on matters of planning. Its duties, as outlined in the Ontario Planning Act, are primarily to conduct studies of the physical, social and economic conditions of the area, to hold public meetings and to make recommendations for future development. The latter are incorporated in an over-all plan.

For the carrying out of its duties, the Planning Board employs technical staff headed by a planning director who is a town planner responsible to both Council and the Planning Board. The other members of the staff are responsible only to the Planning Board through him. The Planning Director sits in at Council Meetings and at the meetings of the Co-ordinating Committee.

As much as possible, the Planning Board makes an effort to co-ordinate its activities with those of the municipal departments. When it intends to make certain proposals to the Council, it previously sends a copy of these proposals to the several departments for their comments.

The Planning Board submits annually its financial requirements for the year to the Council which then appropriates to it the funds it deems necessary. No friction due to disagreement over financial matters seems ever to have occurred. However, there was evidence of bad feeling, due to political pressures. Time and again the Planning Board has attempted to propose changes in the planning policies and was refused outright by the Council.

The Planning Board also works in close co-operation with the Planning Board of Metropolitan Toronto, with which it exchanges information and research on common problems. The work of the Planning Board is subject to final approval of the Metropolitan Board, which in turn requests the consent of the metropolitan Council. The latter then refers the matter back to the local Council.

The Plan

As soon as the Planning Board was appointed in 1946, it engaged the services of a planning consultant to prepare a plan and a zoning by-law. These were both approved by Council and adopted after they had obtained the approval of the Minister of Planning and Development and of the Ontario Municipal Board, respectively. Since then they have become outdated. The plan only anticipated a population of seventy thousand people after a

period of twenty-five years. This figure was met within five years, a perfect example to demonstrate the necessity for adequate provision for frequent revisions to plans. Unable to guide development by referring to the outdated official plan the planning Board is at present using a series of master plans in order to suggest a co-ordinated form of growth to new subdivisions. If contested these plans have no validity, due to the provisions of the Ontario Planning Legislation which only recognizes the official plan.

Zoning By-law

In order to implement the official plan, the Board relies on the zoning by-law. The by-law which the municipality possessed up to July 1958 was prepared by the Planning Consultant who had also prepared the official plan. Both documents, as mentioned previously, are outdated. At present, the municipality is in the process of issuing a new zoning by-law. Since zoning is under the jurisdiction of the Municipal Act and not the Planning Act, the adoption of a new by-law or any amendments to an existing one have to be submitted to the Ontario Municipal Board for approval after being approved by the Council.

Contents of Etobicoke Zoning By-law

The existing zoning by-law divides the Township into fifteen zones, two of which are rural and the

rest urban. Control over rural zones is strict, with the main uses allowed being agricultural and residential and including only certain specific commercial enterprises such as motels, etc.

The other zones make up the different classifications of the residential, commercial and industrial uses. Here the by-law is extremely conventional and follows the established American practices. Single family residential development is the most exclusive use. All other areas of lower use category (except the "planned commercial" zone where stricter control is provided for) may also contain the higher uses, for example in the industrial or the general commercial zones, single family detached houses are allowed.

The by-law is rigid. No provision whatsoever is made for discretionary powers neither with respect to the uses allowed in a zone nor with detail regulations such as front setbacks or height limits. This is, of course, a result of the existing provincial legislation which does not provide for discretionary powers.

The zoning by-law contains specific regulations governing front setbacks, the space about the buildings, lot frontage, area and coverage, the height of buildings, the minimum ground floor area for each zone and the amount of parking. There is control over the number and size of signs but no control over the exterior appear-

ance of buildings other than the requirement that no more than twenty percent of the houses erected on the frontage of a residential block should be similar in their front elevations and that no two adjacent houses should be identical. As long as he varies his designs the builder is free to put up any architectural oddity he may wish.

Administration of Zoning

The Zoning By-law is administered by the Building Commissioner who issues a building permit. No separate development permit is required, thus making it difficult for the Planning Board to exercise control over the day to day development. Only special cases are referred for consideration to the Board which then advises the Council in formulating its decision.

In order to exercise a more positive control over the quality and appearance of buildings the Planning Board often resorts to special agreements with the private developers. These are called site plan agreements and stipulate that certain areas could be put to a certain land use (that is not in contravention with the intent of the by-law) providing that the appearance and disposition of buildings and the materials used on their exterior are subject to the Board's approval.

Acquisition of Land

The township acquires land under the provisions of the Ontario Planning Act which vests in the Municipality the right to acquire land for the purpose of implementing the proposals of the official plan, subject to the approval of the Minister. It also obtains land through subdivision requirements that every developer shall convey five percent of his land to the municipality for public purposes.

The Town Form

Etobicoke is a planned town which is developing by evolution under the conventional method. The planning authority can only guide and control development within the limits of its powers and of its administrative instruments. The official plan divides the township into agricultural, greenbelt, residential, commercial and industrial areas. The agricultural area contains land on the periphery in which development is not envisaged in the near future. The greenbelt areas are along the existing rivers and creeks which offer amenity opportunities. The planning board has made some very interesting proposals for the development of park and recreational facilities in the Humber Valley on the eastern limits of the town.

Residential development is well planned in neighborhoods with their own commercial centers. Roads are mostly curved and indirect so as to discourage fast

through traffic and to create pleasing effects of enclosure.

Commercial facilities are planned in compact areas and the only extensive lineal shopping development is in the old section of the town along three main streets, in existence before the plan came into effect.

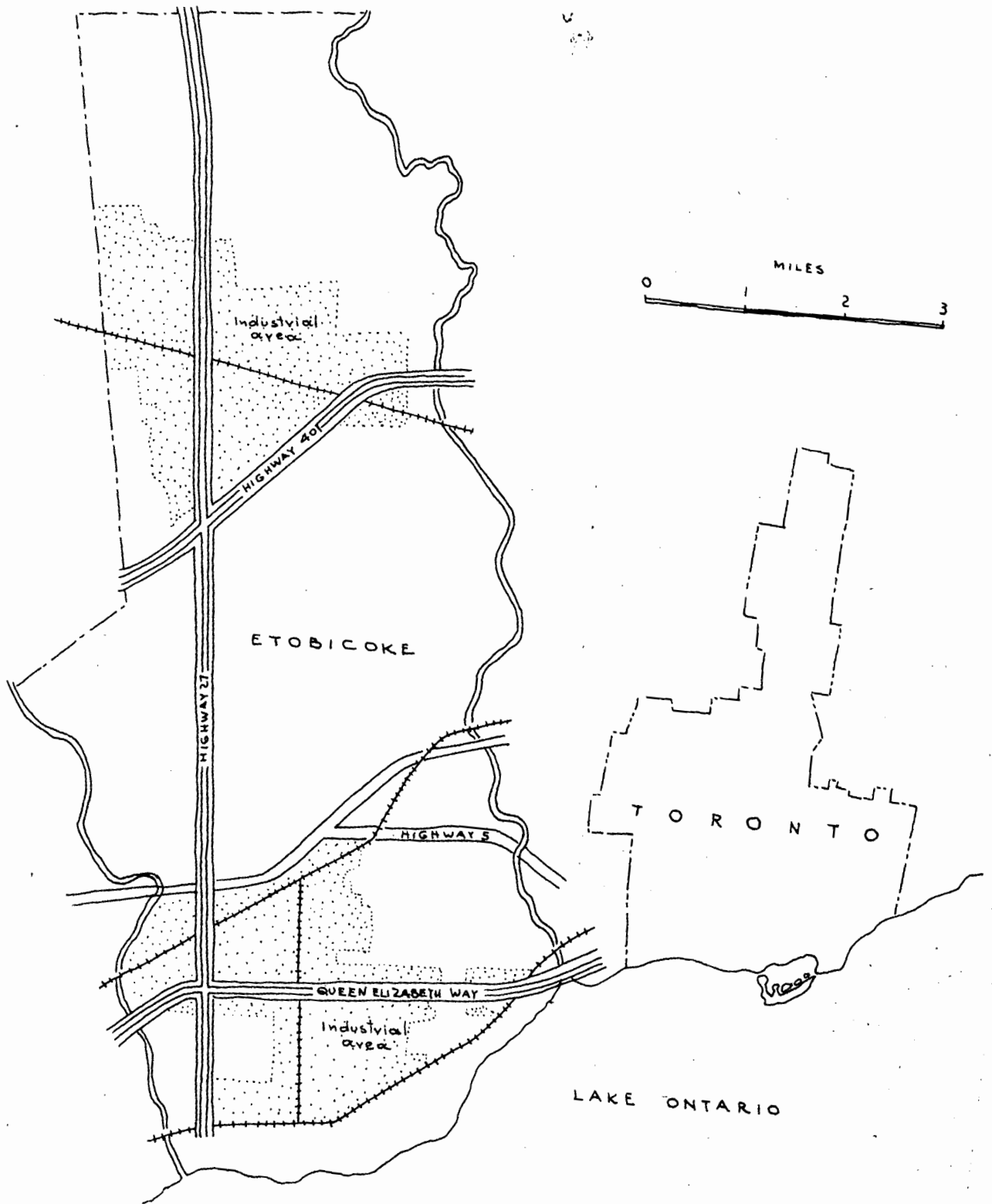
Industry is located in two separate areas at the North and South part of the town, adjacent to the two main metropolitan highways and traversed by both railway lines. The industrial areas are skilfully designed in suitable divisions of land. They are well serviced and have been very successful in attracting industries.

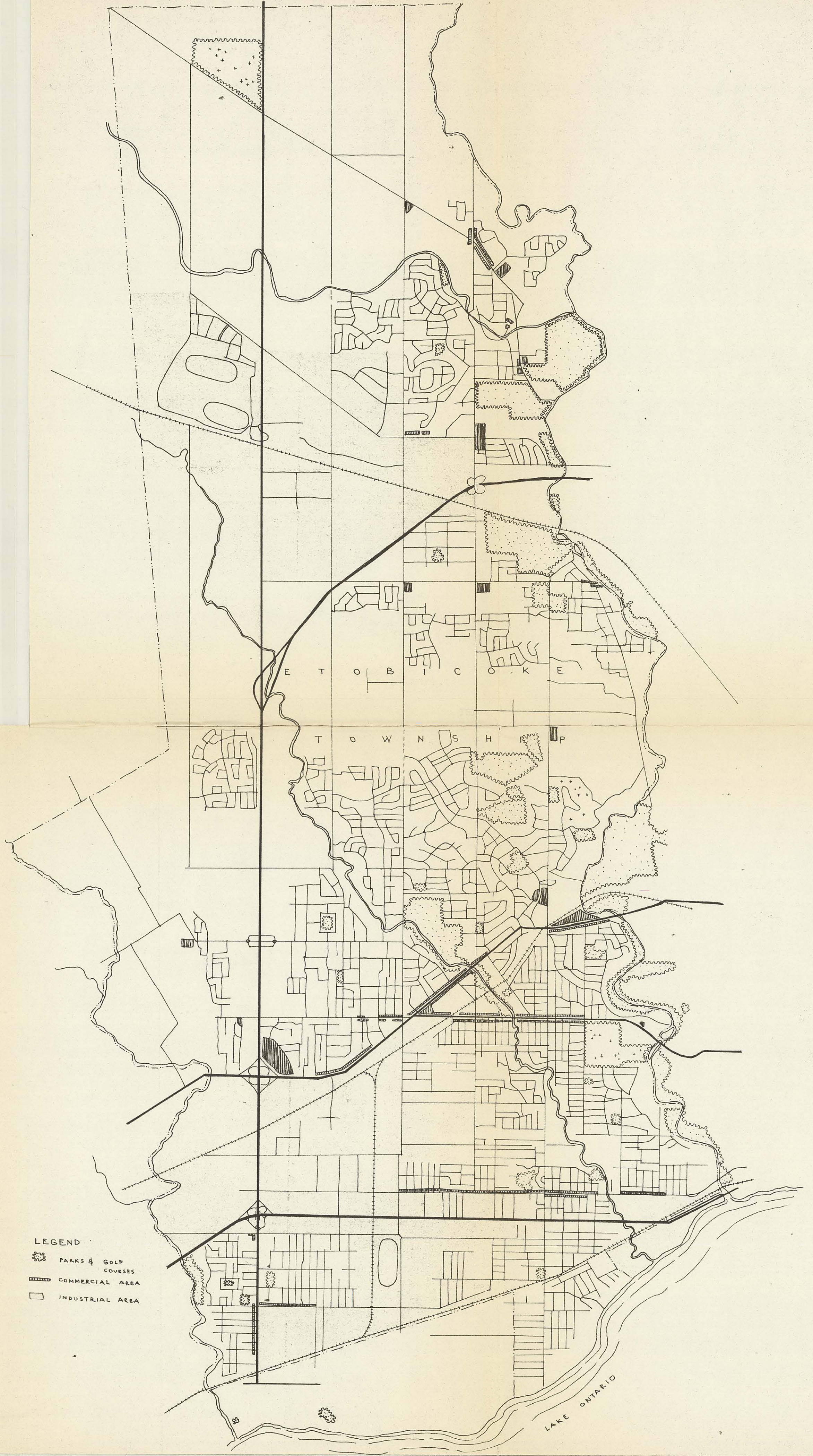
The planned development of Etobicoke has certainly produced results; there are good industrial and good residential areas, but visually there is nothing more; just industry and housing. There is no strong central core to pull the different parts together, no focal point. The civic center is proposed for a site on the main highway connecting the northern and southern parts of the town, an excellent location from the point of accessibility, but at present only the city hall has been erected there.

If the town were developing under the positive system of planning, the authorities would have had the power and the means to instigate the fast growth of this center, which under the conventional system of growth by

evolution might never develop.

The planning authorities of Etobicoke cannot accomplish much in the way of controlling the form of development and its architectural quality due to the inadequate provisions of the zoning by-law. Yet in spite of their handicap, it is surprising to see how much they have achieved by means of private agreements with the builders. The majority of the new buildings in the town are of adequate design and some are very good. This is one case where quality of form is achieved not so much because of the adequacy of the administrative devices but in spite of them. It is unfortunate that the planning authorities who are able and willing to create an urban form of quality cannot do so due to the inherent deficiencies of the official administrative instruments of planning.





LEGEND

-  PARKS & GOLF COURSES
-  COMMERCIAL AREA
-  INDUSTRIAL AREA



Street Corner



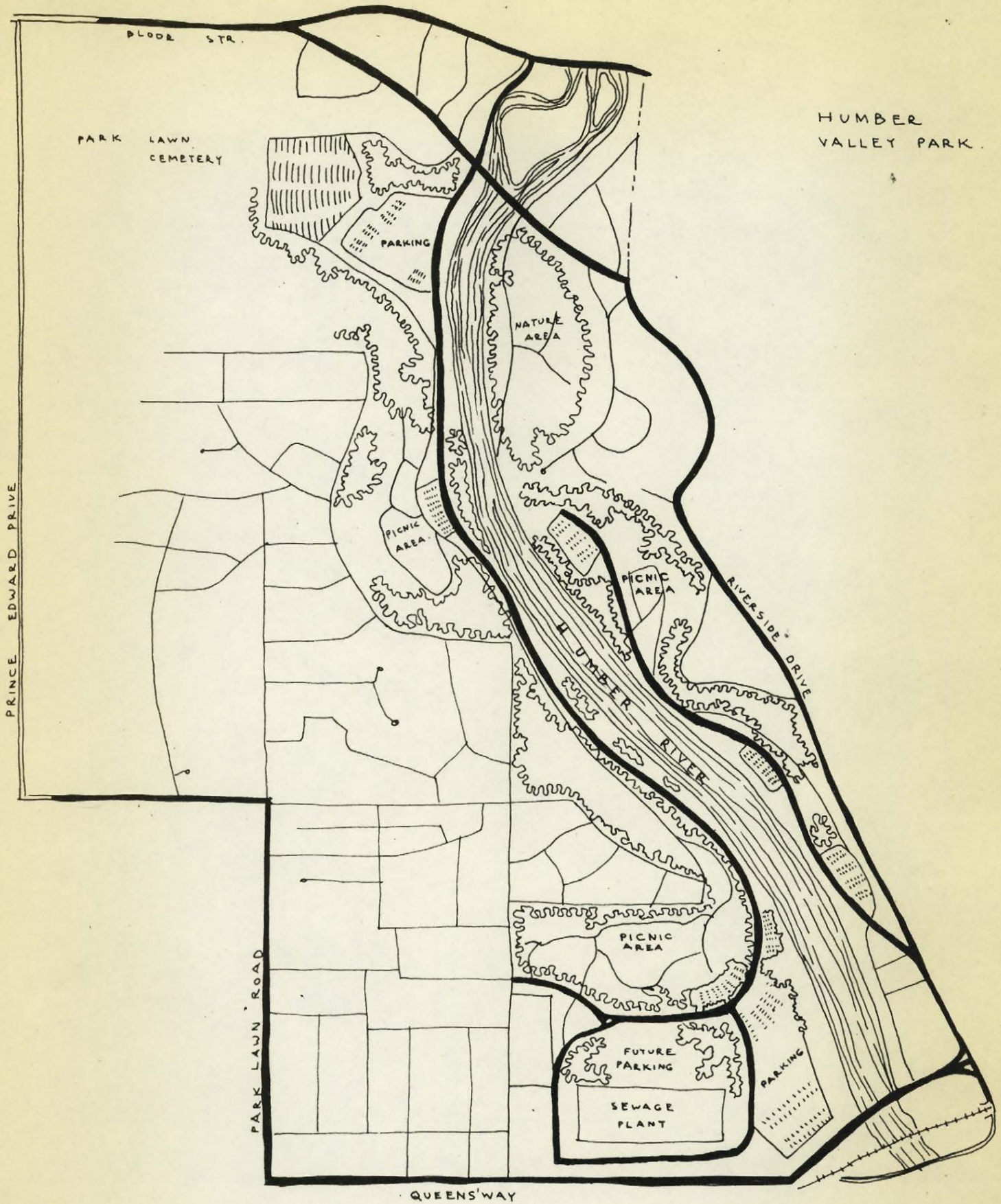
Low Income Housing



Apartment Buildings



Two Storey Houses



CHAPTER VII

DON MILLS, ONTARIO

Introduction

Don Mills is the first economic venture of its kind in land development in Canada. Private interests acquired two thousand, two hundred acres of land for the purpose of building a complete, self sufficient community with a balance integration of industrial, commercial, residential and civic facilities. It is really a new town developing under a positive system of planning. Large capital sums have been provided for carrying out development and achieving full growth within a limited period of time. Construction started in May 1953 and the town is scheduled to be completed within six to ten years from its starting date. The ultimate population is estimated at thirty thousand people of which fifty percent can be employed within the town. Don Mills is close to the center of Metropolitan Toronto, only eight miles northeast of the downtown area. Served by both the Canadian National and the Canadian Pacific Railways, it is ideal for the location of industry.

Planning
Policies

Don Mills Development Limited is the company which has planned and is developing Don Mills. It is a private company with directors and shareholders and as

such it is set up to make a profit.

Its final interest in the town is the operation of the commercial center which it intends to hold as a long term investment. The policy is to amass a population of twenty-five thousand to thirty thousand people in a period of eight to ten years and create the largest part of the purchasing market for the center.

The company is aware that the complete success of its commercial enterprise is closely related to the success of the entire development. Fast and well balanced growth is most important. To achieve this, moneys have been provided for the provision of good services and other facilities. The price of residential land has been kept at less than maximum profit in order to make it attractive to private developers. Industry, necessary for employment and for better integration of taxes has been offered favorable terms. Land is either leased or sold to it and in some instances Don Mills Developments Limited undertakes to erect the required factory buildings. Land is sold to the school board at less than cost, and churches are offered one and a quarter acre lots free of charge if they can prove that they have a certain size of congregation in the area. While the Ontario Planning Act requires five percent of the land to be conveyed to the municipality for public purposes, the plan of Don Mills allocates eleven

point six percent of the area for parks. Most of these have been developed by the company and are being taken over and maintained by the municipality of North York. Every effort is made to bring into the area community facilities simultaneously with the population so that at all times there is an opportunity for a balanced community life.

Land
Policies

Don Mills Developments Limited is the original owner of all the land in the town. It will retain ownership of all the commercial area and operate the shopping centers as a financial venture. All park lands and greenbelts are to be given over to the municipality.

Land in the industrial area is sold under the condition that purchasers must start a building program within three years or the land reverts to the developers at the original selling price plus any taxes paid. If any industry wishes to dispose of its land at any time during the first twenty years, it must first offer it back to the developers. Similarly residential land is sold to builders provided that they start building within three years. All roads and services are paid for by Don Mills Developments Limited as required by the Metropolitan Planning Board and their cost is included in the price of the land.

Planning
Administration

Don Mills is a rather special case because, although it is designed as an independent, self sufficient town, administratively it is only a part of the North York Township. The promoters have repeatedly tried to create a separate municipality but have met with little success because the Metropolitan Board of Toronto did not consider the increase in the number of municipalities in the area desirable. The relationship between Don Mills Developments Limited and the Township of North York is the same as between any other developer and the Township.

The general plan must conform with the official plan, and it requires the approval of the North York planning board. Zoning control is exercised by the North York Township and building permits are issued by the North York building inspector.

In order to maintain a higher degree of control, Don Mills Developments Limited introduced deed restrictions and other special conditions in the deeds of sale of the land. By this device it requires the builders to obtain a development permit from their own planning department in addition to the building permit issued by the Township of North York. The method of introducing restrictions in the deeds was forced upon the Corporation by the circumstances but it can never be as satisfactory as the direct exercise of control by the

local authority. If presented in a court of law, many deed restrictions cannot be upheld since they deal mostly with visual and aesthetic values and not with economic ones. Only if the use of his land by an individual inflicts financial loss on other individuals, can it be prohibited by law.

The Plan

The development company employs its own planning director and staff who are responsible for the plan of the town and for all planning administration. Their planning activities require the sanction of the Township of North York.

The preparation of the plan of Don Mills coincided with the preparation, by a planning consultant, of a new zoning map for North York intended to replace the existing map which was completely inadequate and outdated. As a result, Don Mills' proposals were incorporated in the new map without the need for separate amendments. They were adopted by the municipal council of North York and approved by the Ontario Municipal Board. Any amendments to these proposals will have to follow the same procedures which were followed for the initial adoption of the plan.

In order to keep the development quite flexible, a very high category of land use was shown in areas in which the nature of future development was difficult to

foresee, with the intention to change it later if required.

As the company wishes to develop a new section it submits copies of the draft plan of its subdivision to the Minister of Planning and Development who approves them after consultation with the Township of North York.

By submitting draft plans for only a section of the development at one time, the company succeeds in keeping the planning process flexible. Changes can be introduced in the general plan according to varying conditions without requiring cumbersome procedures of amendment.

The general plan of Don Mills indicates the allocation of land for streets, public open spaces and the various uses of land. It is accepted in principle and serves to guide development.

The Form of the Town

The town has been designed as an independent community with an industrial basis. It has been planned to provide accommodation for all income groups because the planners felt that only a well balanced community can be truly successful in the long run. For this reason a variety of housing types has been provided to suit all age groups and all budgets.

The plan is divided into four parts by the two main roads, Don Mills Road and Lawrence Avenue. Each of the four parts contains a neighborhood with an elementary

school and a playground in its geographical center.

At the crossroads in the middle of the development is the town center, designed to contain both local and regional shopping centers, civic buildings, office buildings, a medical center and the town high school.

Industrial land has been allocated along the railroad lines at the south and north end of the town.

The urban form of Don Mills is compact. It is designed to look inwards towards its town center because, as it was foreseen at the time, it was being planned and as is already happening, Don Mills will probably be completely surrounded by other development in Toronto's Metropolitan area.

The site is very flat and does not offer great opportunities for views. Interest is created by careful site planning and grouping of buildings. Apartment houses are sometimes staggered for visual effect or placed around courts to form enclosures, views down curving roads are terminated by buildings or planting, and front setbacks are often varied to create spatial street compositions. The location of trees is carefully considered so that they will enhance and not hide the townscape. Advantage is also taken of the creeks and ravines that traverse the site. They are incorporated in a greenbelt and are part of the overall park system. Every care was taken to design a town which would con-

form to the best contemporary town planning practices and principles.

Control of
Development

Development is controlled by the Building and Zoning By-law of North York Township administered by the Building Inspector. In addition, it is controlled by the Planning Department of Don Mills Developments Limited by virtue of the deed restrictions included in the deed of sale of the land. These covenants run with the land for a period of forty years and control the design, siting and plot plan of each building. They require that plans and specifications of every building be submitted to the planning department of Don Mills Developments Limited for written approval. In order to ensure a good standard of design it is compulsory that all buildings shall be designed by a qualified architect.

In addition, the deed restrictions provide for control over the design of fences, advertising signs, the cutting and removal of trees, the color of bricks and roof shingles and in general over all the details that create a townscape. The owners retain the right to waive, alter or modify any of the covenants in their application to any lot or lots without having to notify the owners of any other lots.

Architectural control is exercised by the planning staff who only approve the plans of a building if its

design and siting conforms to its surroundings. It has resulted in a better than average environment. Restraint and architectural good manners encounter the visitor. The design of most buildings is of a high calibre and there is also an excellent industrial development. The commercial buildings are well articulated, not merely inoffensive but attractive. Visually all parts of the town are in character with one another and of the same high standards.

Observations

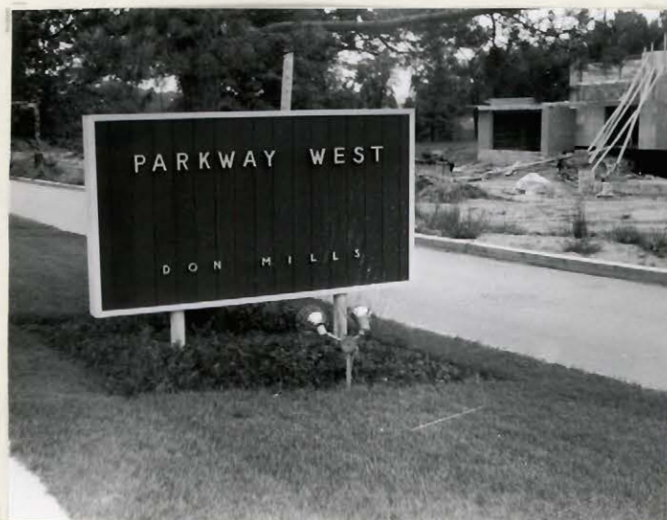
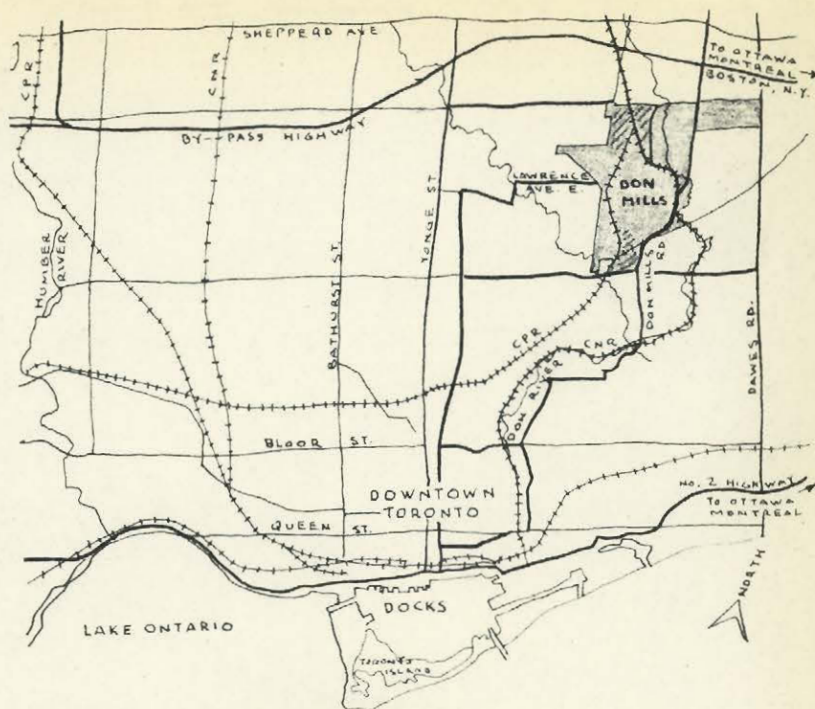
Urban form has been developed in Don Mills through a positive method of planning. The company provided services and shopping facilities and invited private entrepreneurs to develop most of the rest. Due to its proximity to Metropolitan Toronto this was not difficult. Both industries and builders were quick to come and initial development took place at a rapid pace.

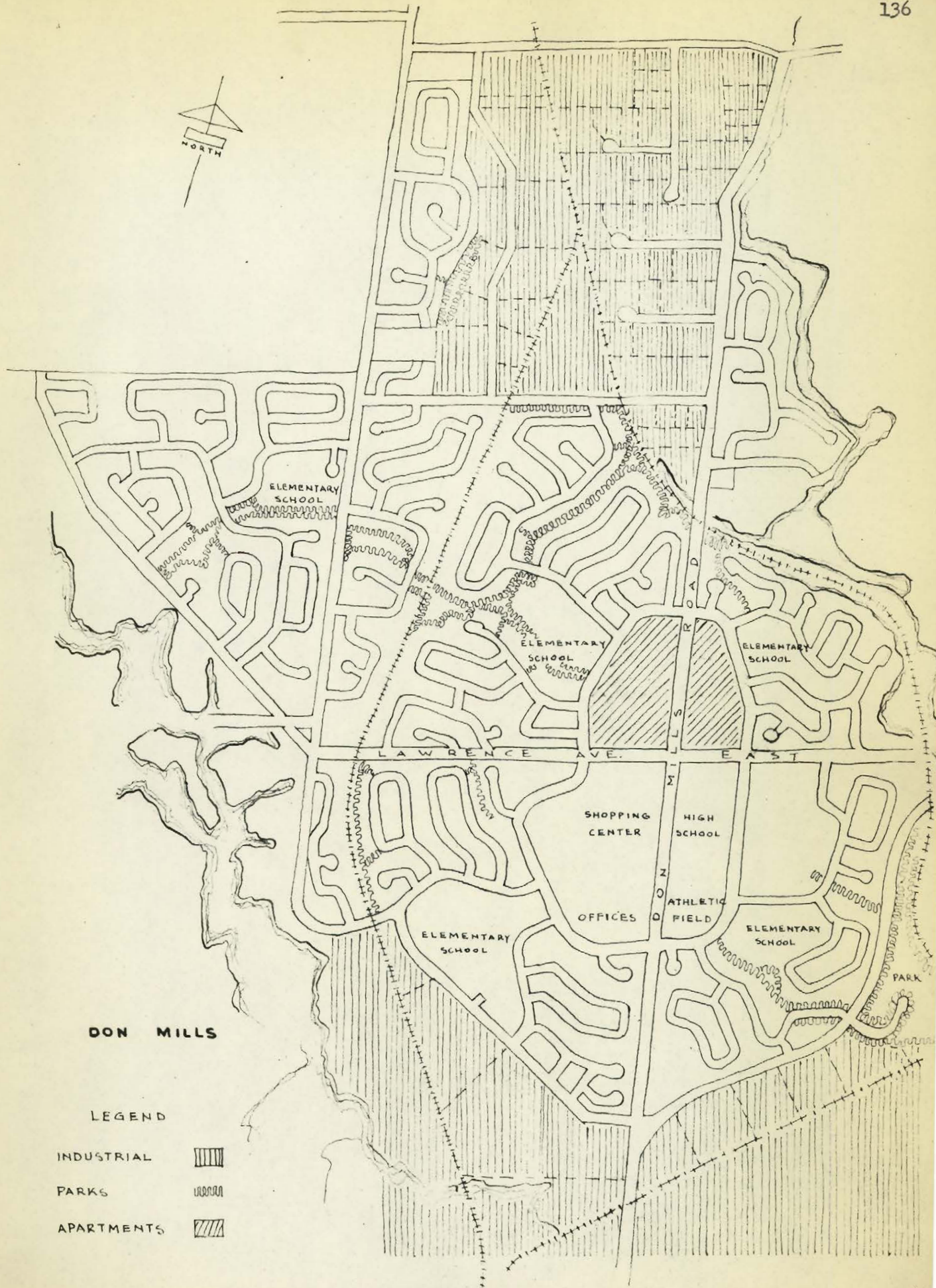
Since then there has been some slowing down due to the economic recession that has been in evidence all over the country. The town has already advanced sufficiently as not to be adversely affected by this.

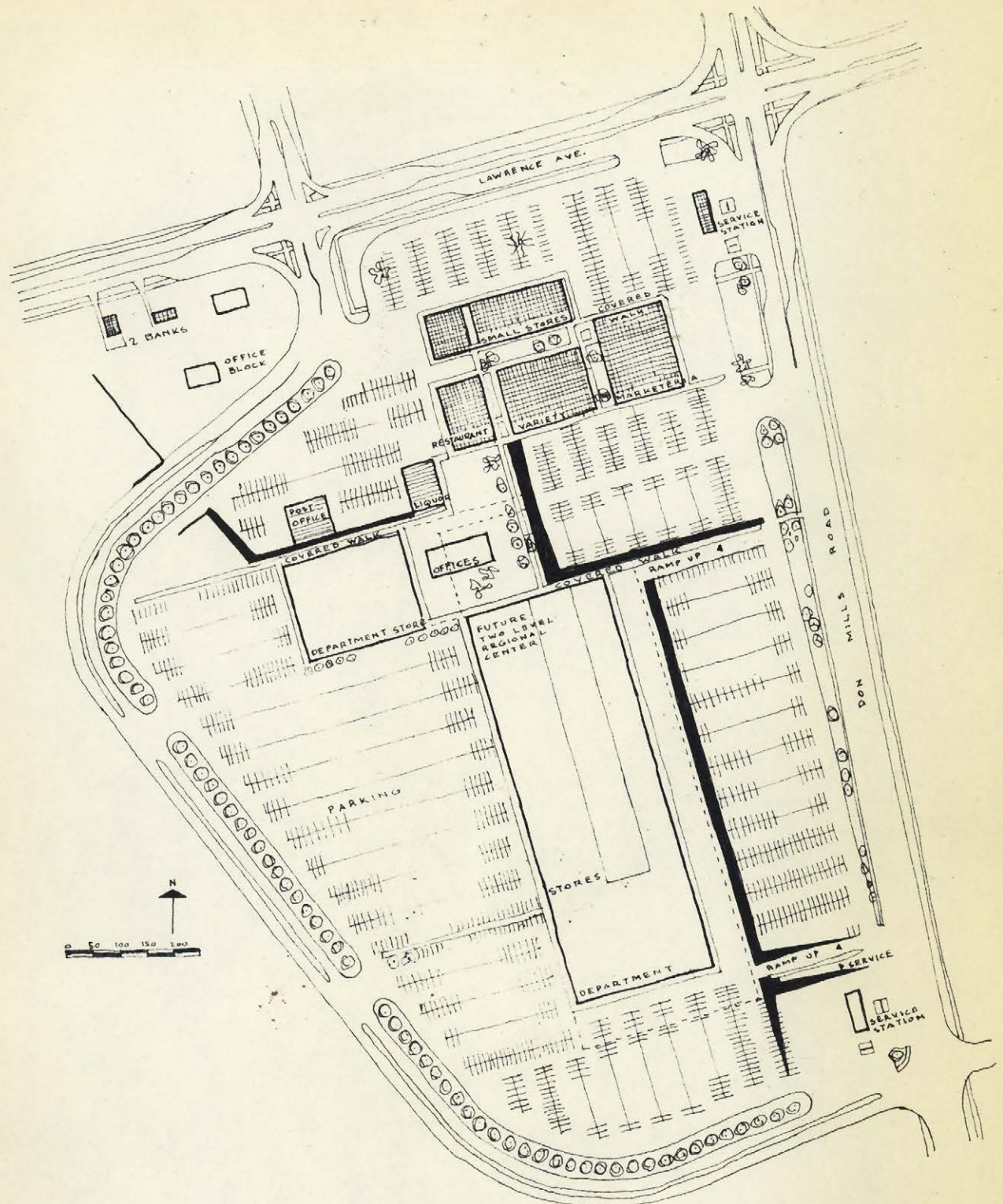
Don Mills is a well designed town and its development is in good taste. There is the odd dissonance occurring on the few isolated parcels of land which the company was never able to obtain and cannot therefore control by deed restrictions. An architecturally shocking

gasoline station with an even more shocking, enormous advertising sign faces the Don Mills Commercial and Civic Center to the frustration of its planners. There is no provision in the North York zoning by-law to stop such occurrences from happening.









DON MILLS
SHOPPING CENTER



Don Mills - Two Banks in the Town Center



Don Mills - Industrial Buildings





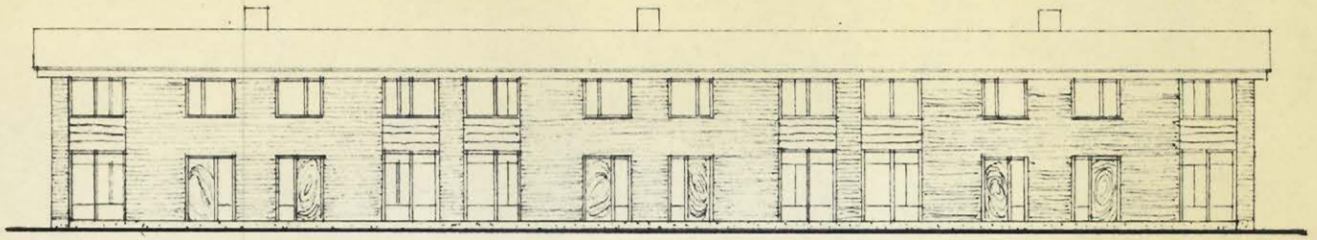
Shopping Center Courtyard



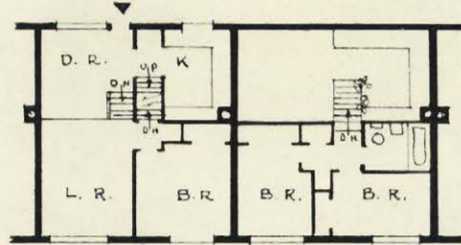
Post Office



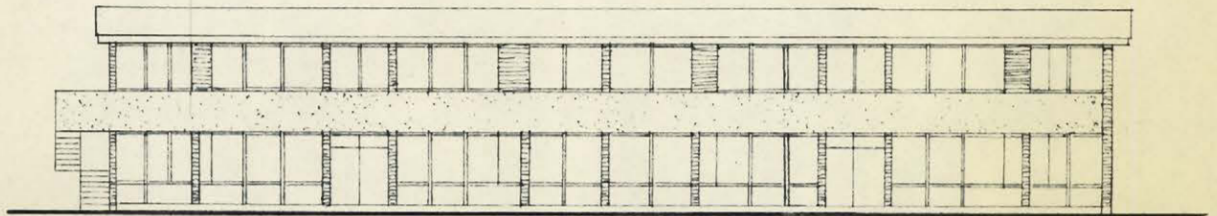
Police Station



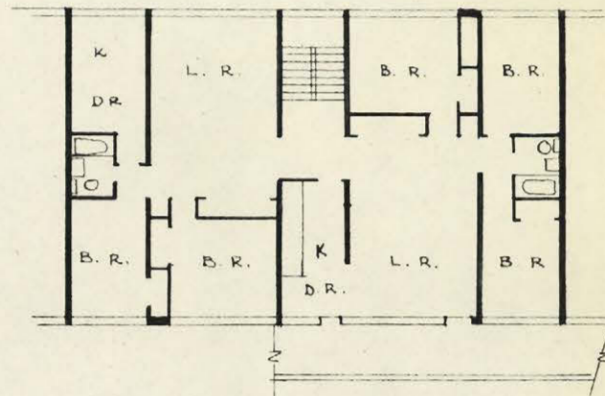
ROW HOUSING



TYPICAL 3 BEDROOM UNITS



APARTMENT BUILDING



TYPICAL 2 & 3 BEDROOM UNITS



Don Mills Terrace Housing

Two-storey
Houses



Apartment
Houses



CHAPTER VII

OROMOCTO, NEW BRUNSWICK

Introduction

The Town of Oromocto has been chosen for discussion because it represents an exceptional case in the planning history of Canada. The method of positive development is applied here for the first time with the municipality given the powers and the means to take an active part in the promotion and implementation of development instead of assuming only the usual permissive and regulatory role prescribed by the Canadian Planning Statutes. Due to Oromocto's unusual circumstances the Planning Act of the Province of New Brunswick was considered inappropriate for application in this case. The Town of Oromocto Act was enacted to apply in its stead. This can almost be considered as the creation of special charter powers for the town.

The Town of Oromocto was planned by the Federal Government in order to provide housing and create an urban environment for the families of military and civilian personnel employed at Camp Gagetown. This camp was established nearby for the training of military forces.

Oromocto is located on an idyllic site of gently rolling countryside and meandering clear rivers. Its very name Oromocto in Indian means "deep still water". Most of the land is covered with beautiful spruce forests, which give a faint pungent scent to the air. In

the clearings farmers grow hay or use the fields for pasture. The area is devoted mainly to dairy and poultry farming and, to a small extent, to apple growing.

Oromocto is situated on the St. John's River, twelve miles south of Fredericton, New Brunswick. Its municipal area covers about five thousand, five hundred acres. It is connected with the surrounding region by train and highway communications. The Fredericton airport is only a ten minute car drive distant.

The original village of Oromocto consisted of three hundred inhabitants most of whom lived along the main highway. It was once active in the shipbuilding industry but recently farming has been its main source of income. With very few exceptions all existing buildings were of very poor quality and in need of repair and maintenance. The town planner, fearing that they would further deteriorate decided that it was in the interest of the new town to remove this development and offered new sites to the inhabitants who wished to remain in the locality.

Government

The Town of Oromocto Act, created a Board of Commissioners to "administer all fiscal and municipal affairs and the whole legislative power and government of the town".* The Board of Commissioners consists of a chair-

* Town of Oromocto Act, Part I, paragraph 4, p. 5

man and six commissioners - the chairman and three commissioners are appointed by the Governor in Council and the other three by the Lieutenant-Governor in Council, one a ratepayer of Oromocto, one a member of the Sunbury County Council and one a representative of the provincial government.

The Board of Commissioners will act as a custodian authority until such time as the town is able to have its own local government. It differs from locally elected town councils because (a) it is responsible to the government of Canada and the Province of New Brunswick and not directly to the residents of Oromocto, (b) its members are not residents of the municipal area over which they have jurisdiction, (c) it has far greater powers with respect to planning and development.

To carry out its functions the Board of Commissioners appoints officers among which is the town planner. He is the technical consultant who advises the Board upon matters of planning.

Financing

In order to achieve the Implementation of the Municipal Area Plan, the town requires a great deal of capital. The acquisition of land, provision of streets, sewerage and other services involves the spending of large sums of money before any revenue-producing development may take place.

In 1956, it was given a grant by the Federal Government for the purchase of land and for development purposes. In addition, to complete development, the town has also applied to the Legislative Assembly for a loan for capital expenditures on town projects.

In lieu of taxes the Federal Government approved payment to the town of a yearly grant to assist in the operation and maintenance of the town services.

Taxes in Oromocto do not vary too much from those in other towns in the Maritimes although services provided are above average.

Development Policies

The Board of Commissioners of Oromocto is vested with wide powers by the Town's Act with regard to planning and development. As a result it can actively participate in development should private investors fail to appear. With regard to land; municipally owned land is sold on the basis of standard serviced lots for residential purposes and an effort is made to recover as much of the cost of services as possible in the sale price of the land.

To prevent speculation every sale or lease of municipally owned land includes a condition that construction shall be commenced and completed within a specified period and that within this period no resale of the undeveloped land is permitted, otherwise the sale or the

lease will become void. When acquiring a parcel of land the developer must enter into an agreement with the town to comply with the regulations of the control scheme.

In the early stages of the town, development was slow to take place. Private investors felt that the future was uncertain because of Oromocto being a government town, dependent largely upon the continued existence of the military camp. Also curtailment of credit made funds difficult to obtain.

In December 1957, the Board approved in principle two very important proposals:

- (1) The establishment of a development corporation to act on behalf of the town in securing the development thereof.
- (2) The engaging of an agent to guide, promote and secure the development of such commercial, industrial or other projects within the town as may be referred to such agent by the town.

Powers to act according to the above were vested in the Board in Part II, Section 38, of the Town of Oromocto Act, stating that:

"The Board may enter into an agreement with any person or a governmental or municipal body or agency for the carrying out by that person, body or agency of a development provided for in

the municipal area plan".

The above proposals did not materialize until later in 1958 and then in a different form.

The Creation of the Devel- opment Corpor- ation

The Board of Commissioners is concerned with the implementation of the municipal area plan which has specific items which must be done. For the execution of these items it has recently created a Development Corporation which consists of a board of appointed directors and of officers among whom one is an agent. Of the directors of the corporation one is appointed by the Federal Government, one by the Provincial Government and one by the Board of Commissioners of the Town.

As an instrument of the Board of Commissioners the Development Corporation does such things as it is instructed to do. For its purposes money and land are available for whatever transactions it has had to do.

The Development of the Town Form

The form of the town is gradually developing by the skilful manipulation of the methods and instruments of planning. The beginning was made by the decision of the town planner to plan the center of the new town on the site of the existing village. This was a well founded decision. The quality of the village buildings was poor and could have further deteriorated. Furthermore, the site they occupied appeared to be a natural gravitational point for the town, as it was located close to the mil-

itary area but within the civilian zone. In the planning of Oromocto every effort has been made to bring about a better integration of the military and civilian elements of the town.

It was felt that the military personnel seeking relief from its environment would enjoy visiting a center located in the civilian section.

The Town Center commands a sweeping view of the countryside. Several terraces and a boardwalk have been incorporated in its design to enable the people to view the arresting landscape. This consciousness of the opportunities offered by the terrain for the enjoyment of distant views permeates the plan of the entire town. Oromocto, situated on a hilly site and surrounded by beautiful countryside, is designed to look outwards. The town park and the playing fields are on high ground. Buildings are so placed that they will not screen an outstanding view. The Town Center, instead of being in the middle of the development, is planned on the outskirts, near the river, from where one can look out at the blue waters, the forests and the undulating hills.

By exercising its powers for the acquisition of land the Board of Commissioners has taken control of most of the land required for the implementation of the proposals for the Town Center. The existing buildings were demolished and the site graded and prepared for new development.

The pattern of a planned town is, to a certain degree, set by its plan. The allocation of certain areas for the various uses of land and buildings as well as the design of the circulation system give a definite form to the structure of the town. Only up to a degree, of course, because town building does not occur in a day and new conditions might introduce changes in the planned use pattern.

Oromocto is planned to contain six residential neighborhoods each with its own park and school. It is also planned to contain a town center, transportation, industrial and institutional areas. The form of the development in each of these areas will eventually create the final character of the urban scene.

To effect the provisions of the plan the control scheme has divided the town into use districts and sets specific regulations for each. In addition to the uses mentioned above it comprises a greenbelt district, to contain all land upon which no development is desirable or envisaged in the foreseeable future. Only agricultural uses, or public recreational facilities are allowed in this district.

The residential districts consist of several component parts which provide for accommodation of different densities, i. e., for single family dwellings and for two or multi-family units. These can be

detached and semi-detached houses, terrace or row houses and low or high rise apartment buildings.

The non-residential areas are zoned for and most probably will contain buildings of different functions. For example, the town center may include shops, a hotel, recreational buildings, civic buildings, etc.

Each type of the above buildings has a certain form in its expression; it has a certain height and bulk of its own. Sensitive siting with attention paid to the relationship of the buildings to other buildings and to the spaces between them can achieve the most pleasing effects.

When an individual or developer intends to build in Oromocto, he is required to submit his proposals to the town engineer for approval in order to obtain a development permit. To make his decision, the town engineer seeks the advice of the town planner who first sees that the building complies with the regulations of the control scheme with respect to height, lot lines, etc. and then decides whether it is suitable with respect to its relationship with its environment, its placement on its site, its architectural design, its exterior materials, etc. If the town planner is not satisfied with the above he suggests his own proposals with regard to the scheme and the town engineer requires

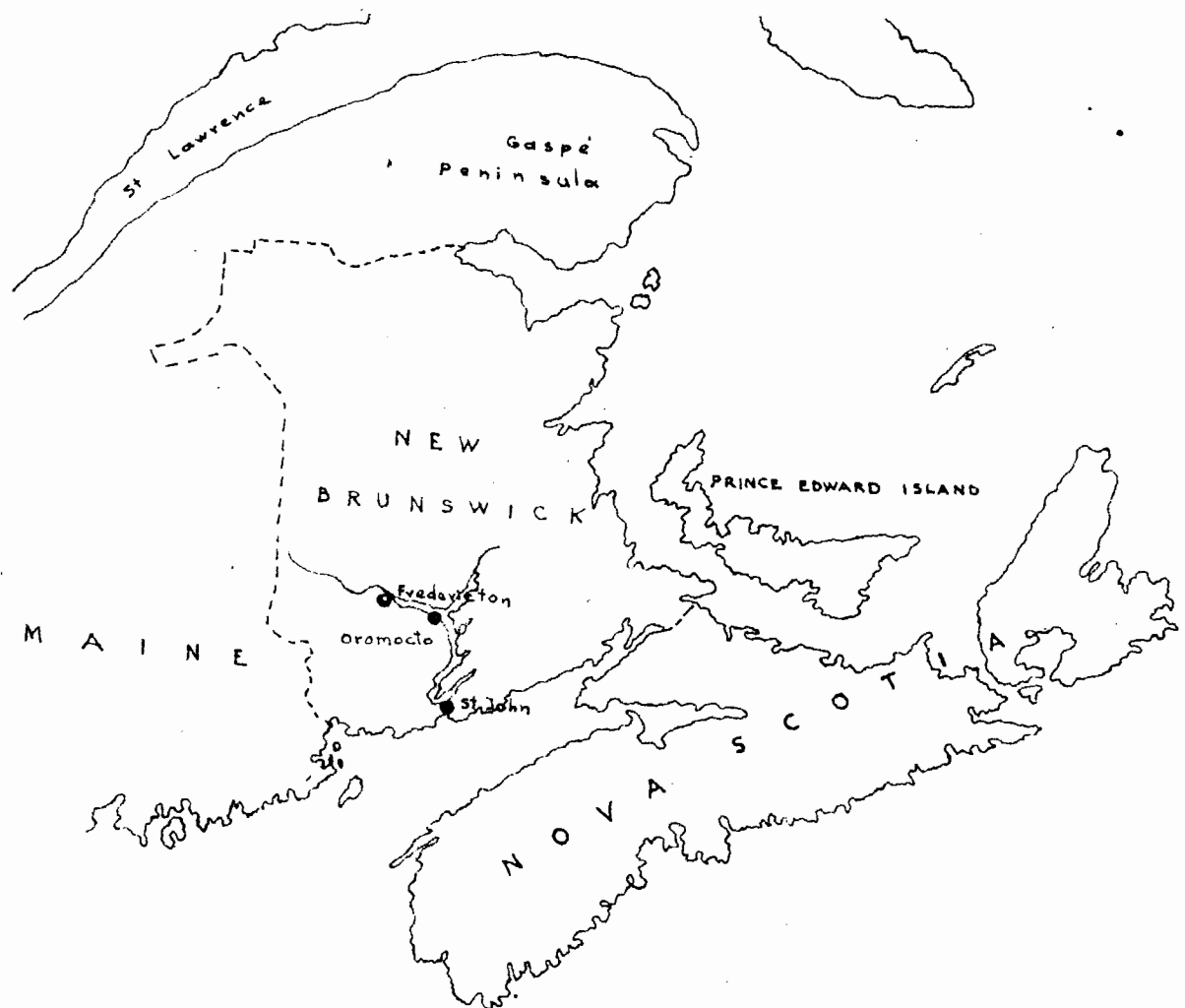
the developer to resubmit his drawings after revising them accordingly. Thus the town planner, through the town engineer, is able to control the siting and appearance of buildings and to shape the form of the town.

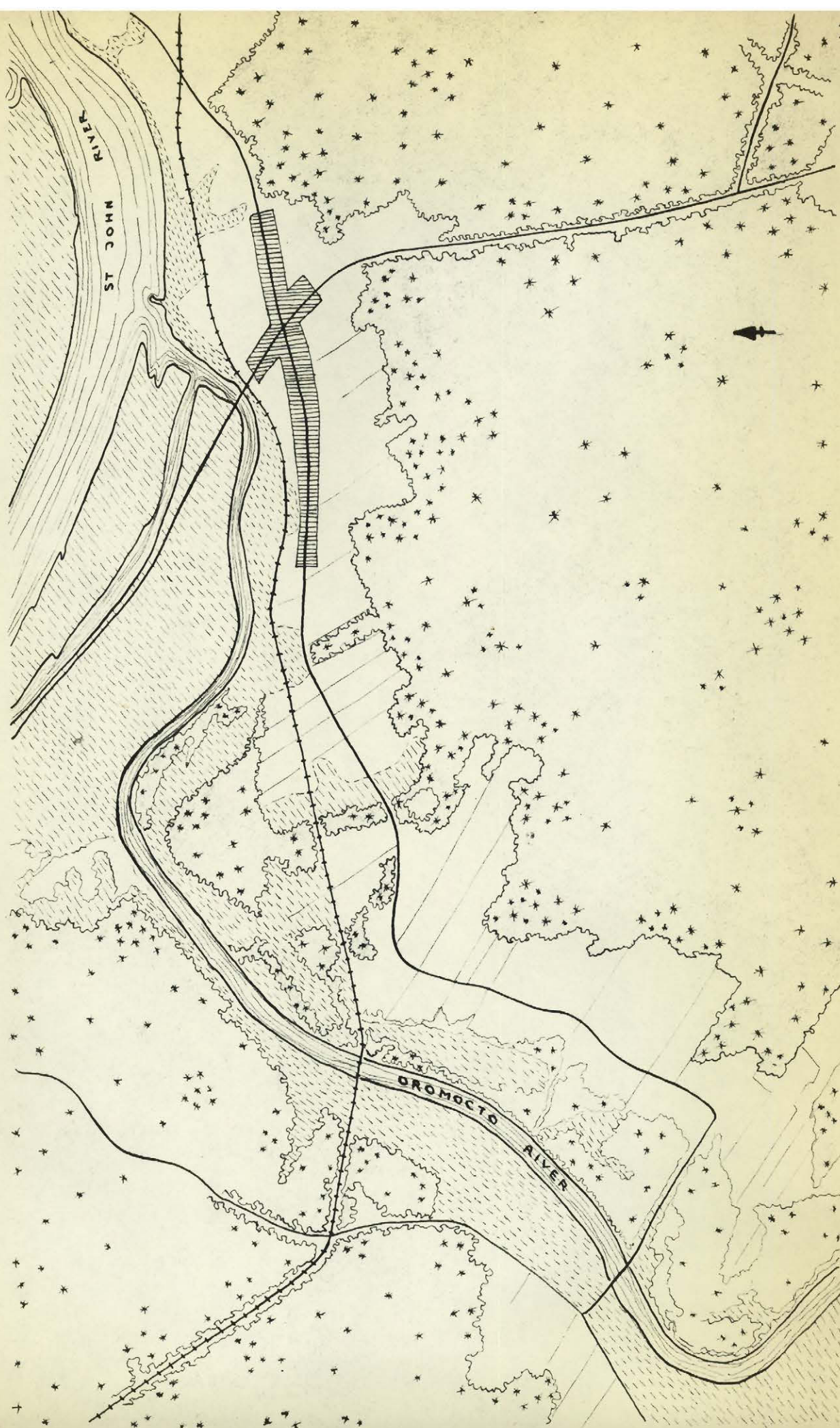
In the case of subdivisions where a number of houses will be built the town planner prepares the site plan indicating the shapes and sizes of lots, the front setbacks and the location and grouping of the buildings in the manner which appears to him most suitable.

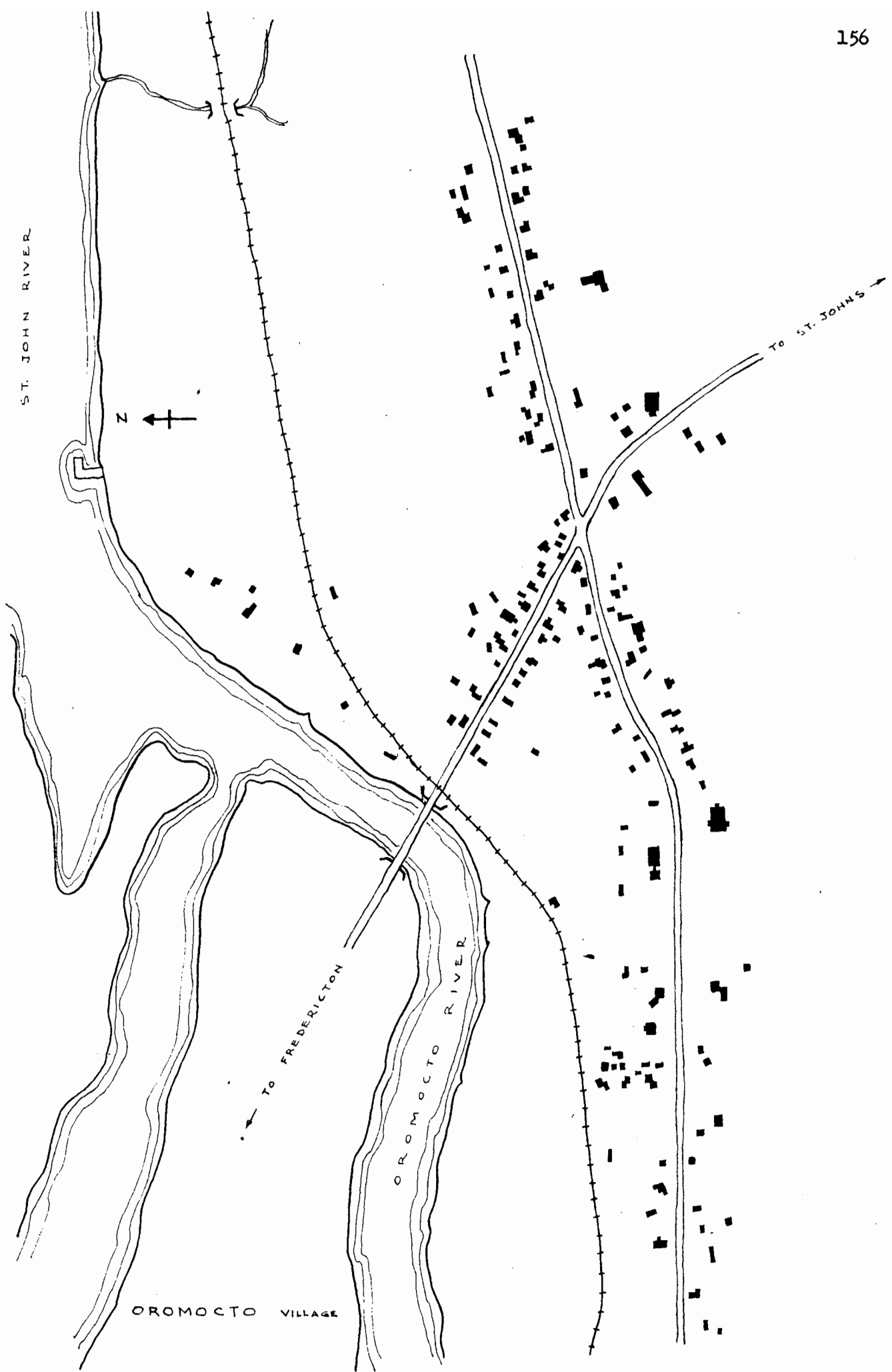
In the event that the Board intends to instruct the development corporation to carry out projects, the town planner studies the latter with respect to the use of land, the bulk and disposition of buildings, their form and architectural sense, etc. When the proposal is brought to a point where it can be made an economic possibility the Board instructs the development corporation to implement it.

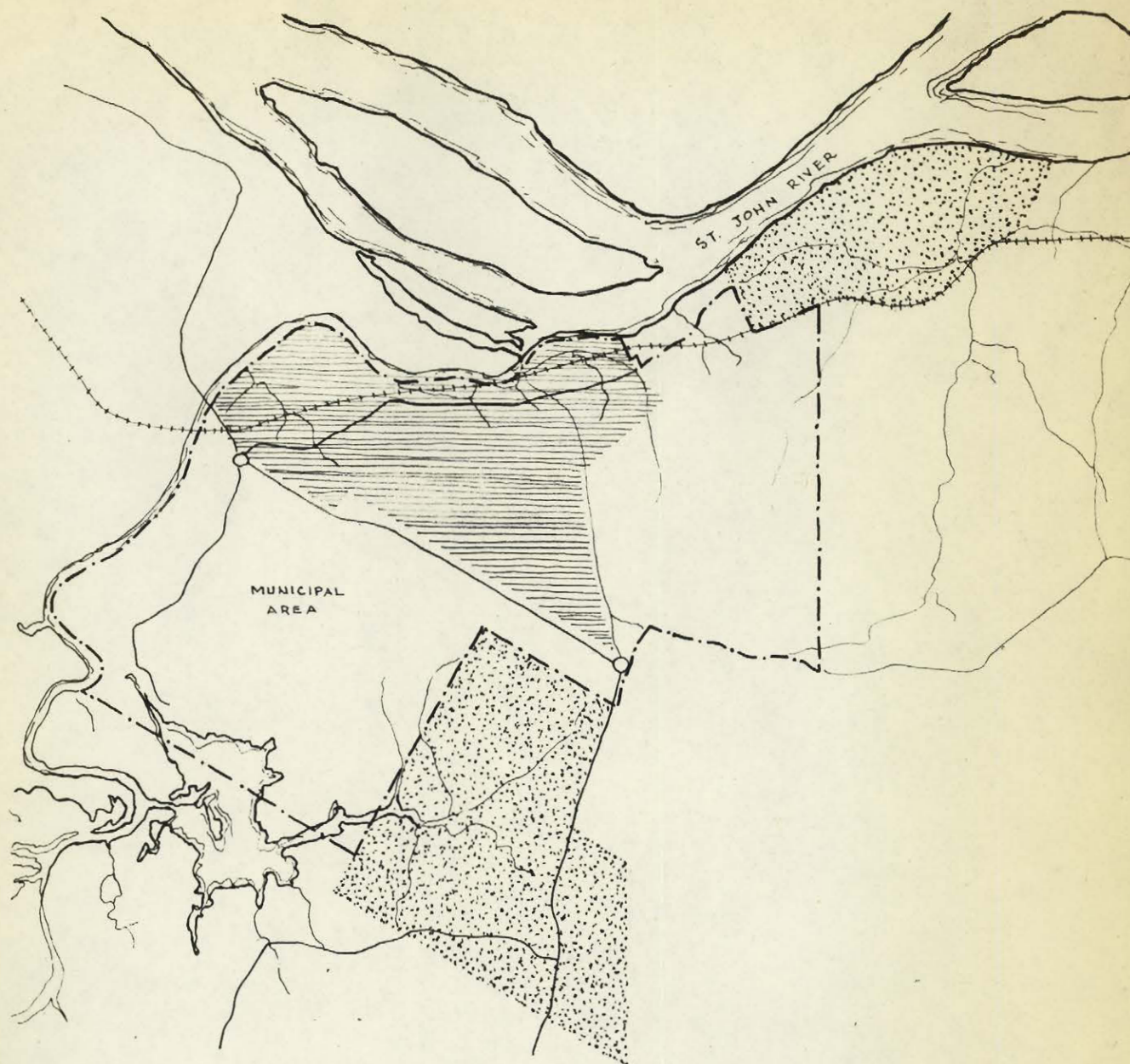
The town form does not depend for its quality on the design and placing of buildings alone. Details of the townscape are important, i. e., lamp posts, signs, fences, trees, the materials used for the paving of streets and public terraces, the way public spaces and parks are laid out. The town planner advises the Board on all these matters. He submits proposals for tree

planting, for the grouping and selecting of certain types of tree which will enhance the visual appearance of the town, for the treatment of the public parking areas and terraces in the town center and for the public playing fields, playgrounds and parks. Thus the town planner is the prime mover, the technical person involved with the instrument of planning who is shaping and, through the local authorities, controlling every form of development which takes place in the town.





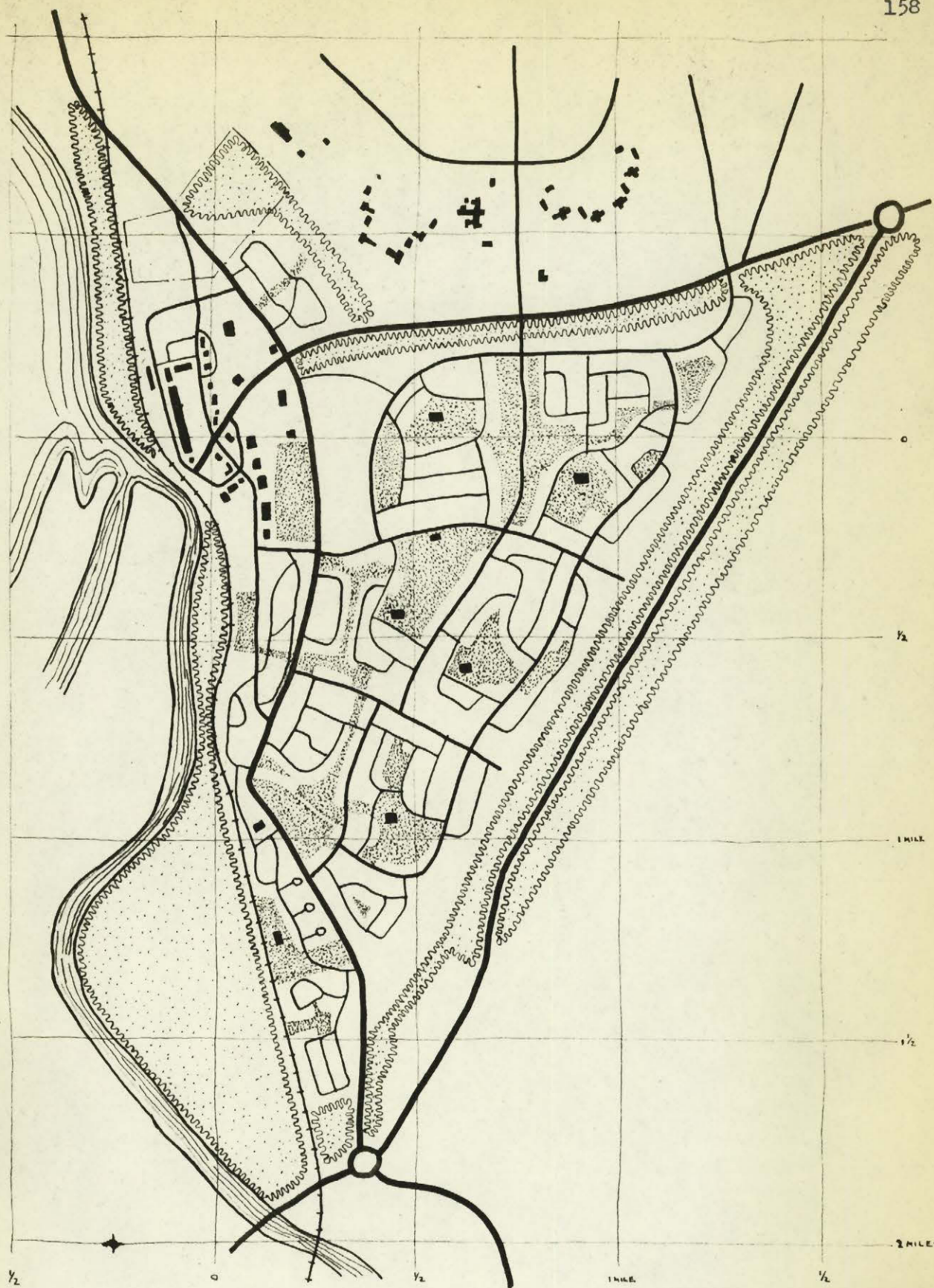


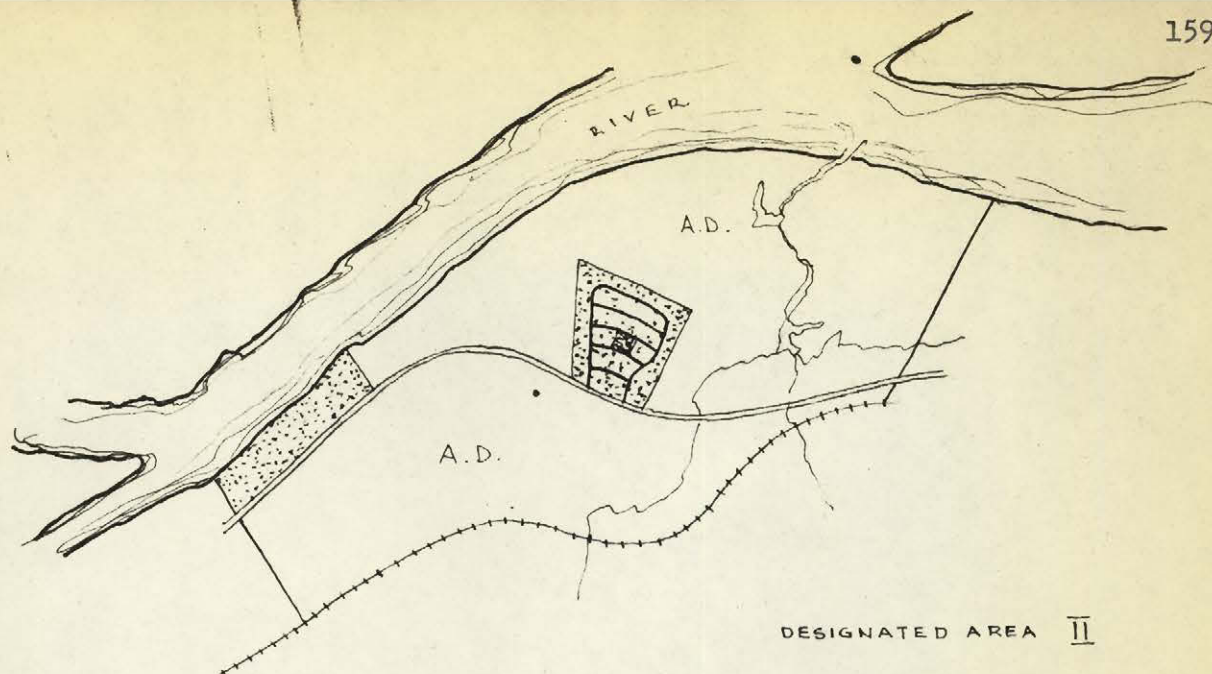


 AREA COVERED BY THE DEVELOPMENT PLAN

 DESIGNATED AREAS

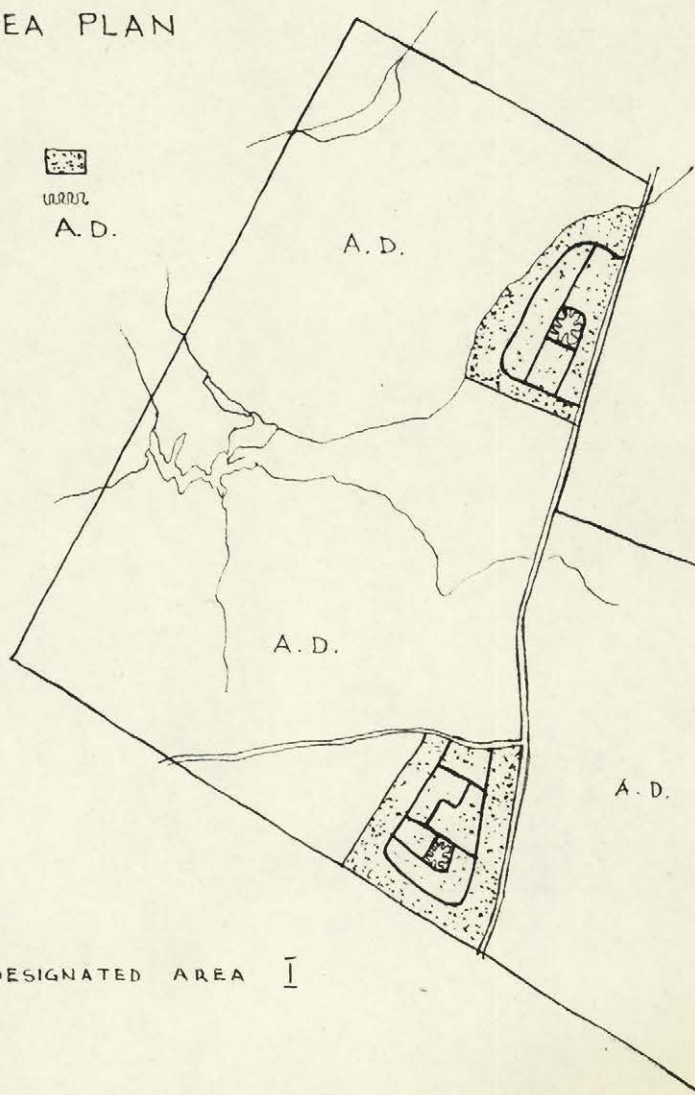
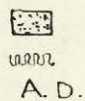
 BOUNDARY OF MUNICIPAL AREA



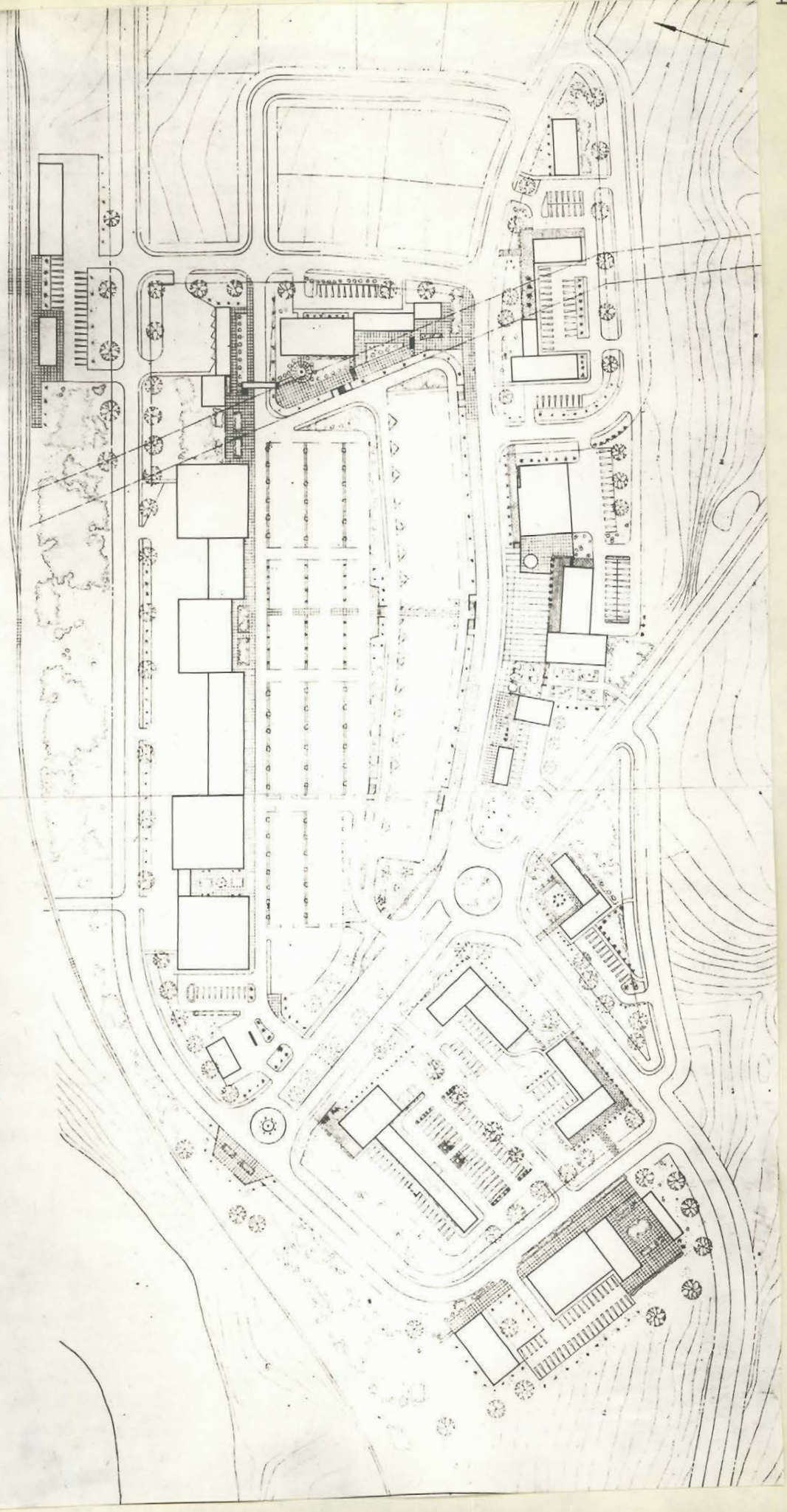


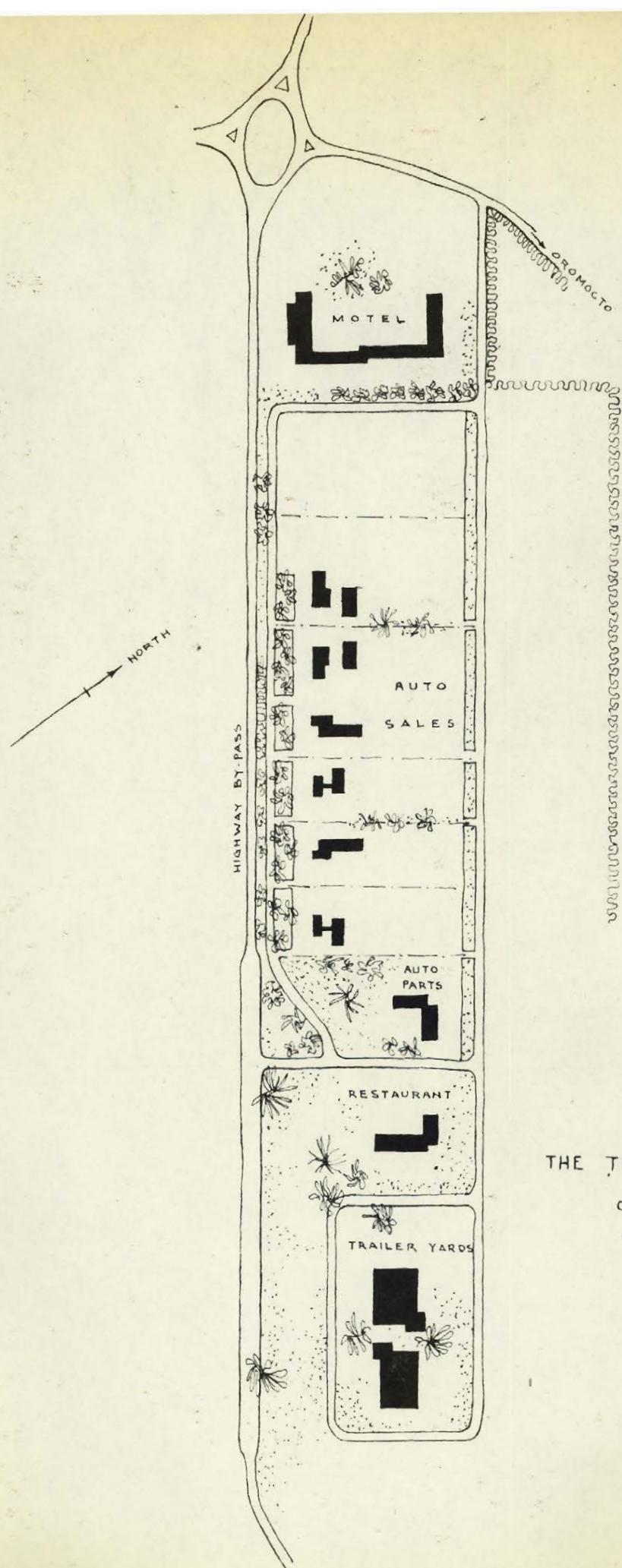
DESIGNATED AREA PLAN

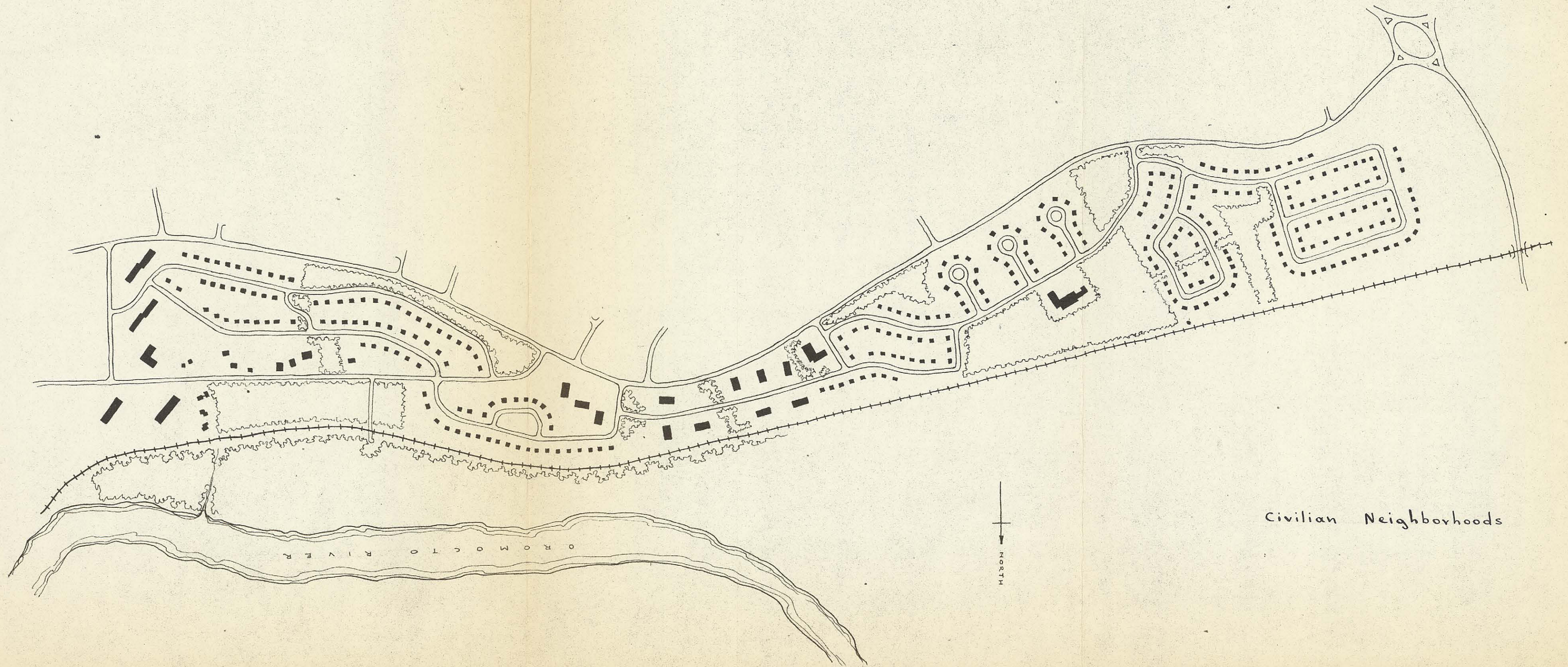
RESIDENTIAL DISTRICT
PUBLIC OPEN SPACE
AGRICULTURAL ZONE



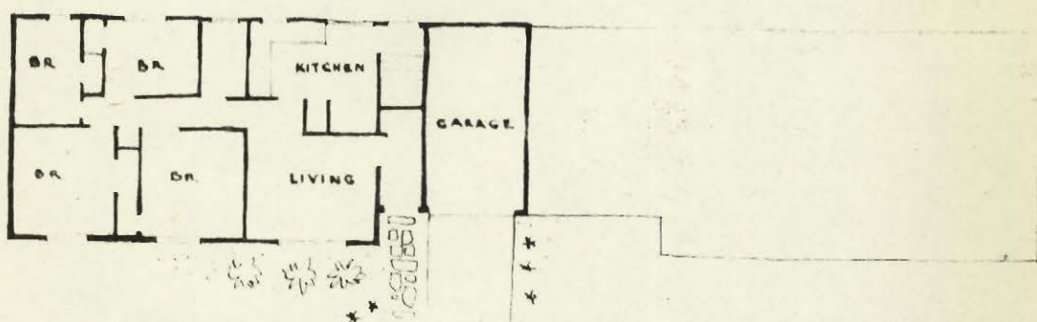
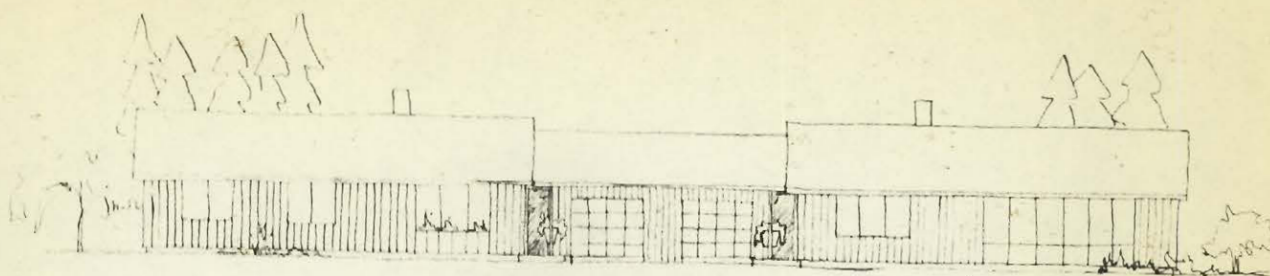
THE TOWN CENTRE, OROMOCTO.



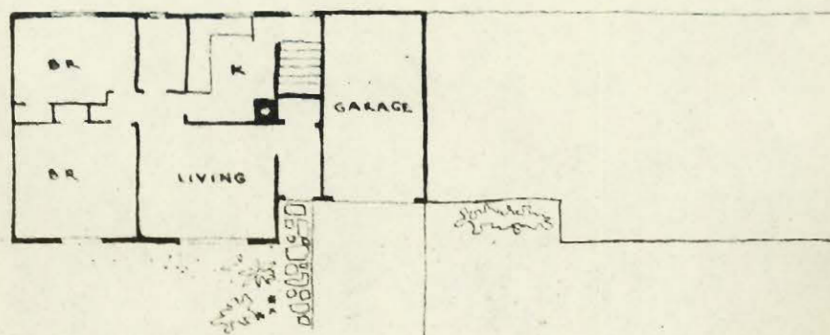
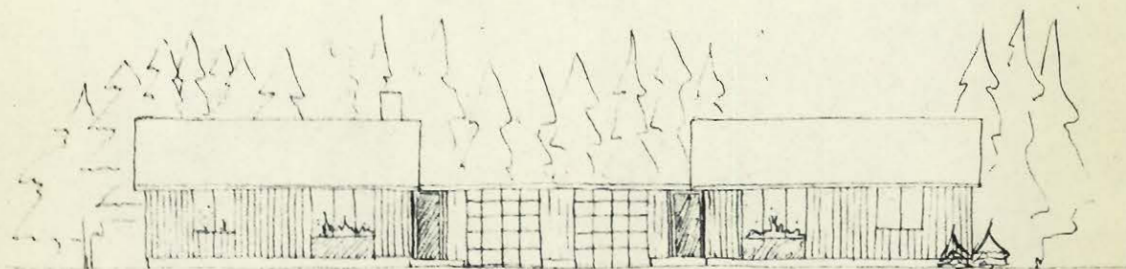




Civilian Neighborhoods



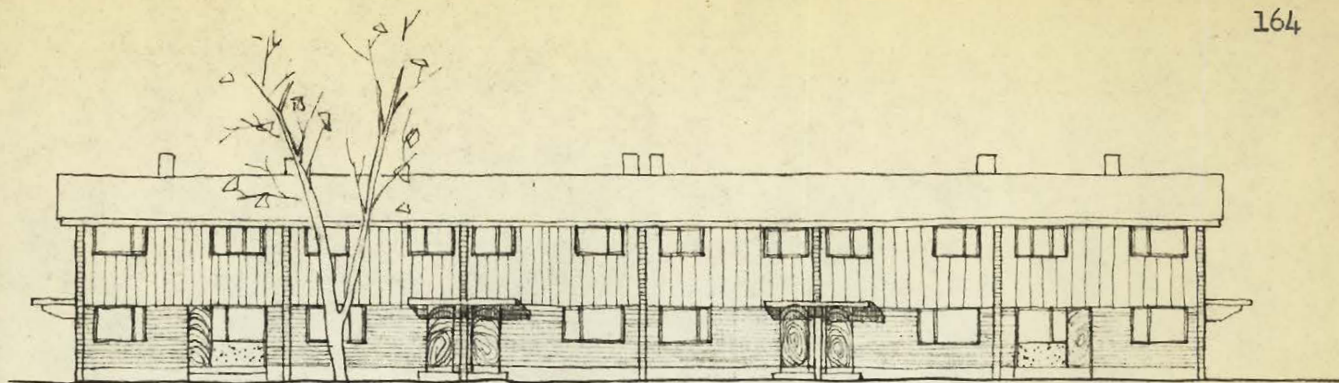
FOUR-BEDROOM UNIT



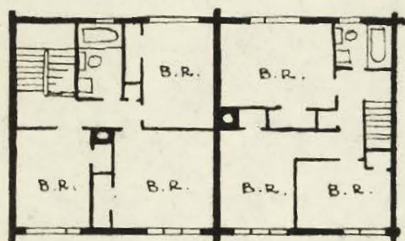
TWO-BEDROOM UNIT

HOUSE TYPES

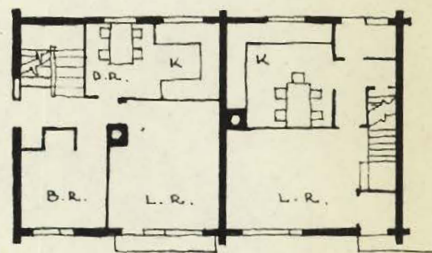
OROMOCTO



ELEVATIONS



SECOND FLOOR



GROUND FLOOR



OROMCTO

ROW HOUSING IN THE P.M.Q. AREA



Housing in the P.M.Q. Area

PART III

CHAPTER IX

Comparison of Techniques

After studying the development of planning today, it becomes obvious that there exist two distinct systems by which urban form is effected; one is the conventional system of a permissive and regulatory nature as generally practiced in the United States and in Canada and the other is the positive development system as applied in Great Britain since 1947. The aim of both systems is to achieve orderly urban growth. Their methods differ as do their results.

The conventional system depends on the development of urban form through evolution. It is a slow, regulatory process. In contrast, the positive development system instigates urban growth where it deems this to be in the interests of the community. The conventional system cannot create new towns since it is not dynamic; under it new growth takes place mostly by accretion. Agricultural land surrounding urban development is gradually taken over and built upon. In large centers, gaps between existing municipalities are slowly filled and the entire area becomes a continuous urban mass.

Montreal, Toronto and all large cities are gradually engulfing their neighboring municipalities and expanding out into the countryside. The existing system of planning in Canada cannot stop this ever-spreading growth. At the most, it can only regulate it. Being permissive it does not force municipalities to possess a plan incorporating proposals for their growth and, as a result, there is no framework against which new development can be considered.

In the positive development system planning is obligatory. Each local planning authority is required to prepare a plan covering its administrative area. Thus, all development is brought under control.

The conventional system does not provide any special financial means for the exercise of planning activities. Municipalities are financially responsible for the implementation of their schemes and most often are not in a position to acquire even the necessary land far less actually carry out development indicated on their town plan.

The development system makes provision for financial grants and other monetary arrangements that will provide the planning authorities with the large sums of money required effectively to carry out their function of planning. This is especially necessary in the case of new towns where growth is expected to take place

within a short period of time. For the success of such development time and timing are very important. Employment, population and community facilities must keep pace with one another or one of them will suffer and the entire development will suffer as a result. Radburn, New Jersey, was never able to develop into a town in spite of all the study and care its planners put into it because of the lack of adequate funds to put the scheme through in the early years of its development. Both in Don Mills and in Oromocto money was made available for the implementation of the plan.

The development and the conventional systems make provisions for planning authorities and for their instruments for planning. These differ in concept.

Planning Authorities

The development system vests all planning authority in the local government which has to prepare the plan and foster its implementation. This practice follows the British tradition which always depended on the belief in a strong local government.

The conventional system, on the other hand, is influenced by American traditions. In the United States there always existed a distrust of local government. Semi-autonomous Commissions and Boards have been appointed to perform functions really belonging within the jurisdiction of the local authority. It was done in

order to separate these functions from politics. This practice weakens the local government and renders the co-ordination of policies difficult.

In the conventional system the function of planning has been delegated to planning commissions. They are semi-autonomous, non-paid citizen bodies appointed by the council to prepare a plan and to advise upon all planning matters. They have not been very effective. Not being a government department itself, the commission is unable to properly co-ordinate its activities with the various departments. The members of the commission lack adequate knowledge of the problems that face the local authority and the council in return does not think highly of their ability to carry out their duties since they are mostly laymen and not necessarily technically trained. This results in friction between the two authorities and often planning commissions are frustrated in their efforts because the council does not appropriate sufficient funds for planning.

The Plan

The planning authorities are responsible for the preparation of a plan incorporating their proposals for the future growth of the municipality. In the conventional system the concept of the plan is static. Upon the approval of the council the plan is adopted by

by-law and becomes a legal document. No provision is made for periodic revisions. Amendments can only be introduced through the same cumbersome procedures which were followed at the initial adoption of the plan. There is no requirement that the plan shall include only proposals foreseeable in a certain limited period of time. As a result, a great number of municipalities possess plans which are too ambitious, unrealistic and outdated. They are useless and sooner or later end up in the archives, never to be referred to again.

The development system accepts planning as a dynamic process. The plan has to be realistic and flexible. It provides only for development foreseeable in the near future. It can be amended at any time and at the end of a specified period of time it is re-examined and revised. "Development plans" in Great Britain provide only for development foreseeable in the next twenty years. By stipulation of the 1947 Town and Country Planning Act local authorities must conduct new surveys and submit any amendments or alterations they may think necessary to the plans every five years after the date the plans became effective. Furthermore, amendments to the plan can be made at any time so as to always keep it up to date.

Control of Development

A powerful instrument for the implementation of the plan is the control of development. There are two theories about the scope of such control. One regards it as a means of preserving existing property values and local amenities, the other as a means to assure that land is used in the most beneficial way in the public interest.

The first theory as developed in the United States is the one generally used in the conventional system. A "zoning by-law" is a legal document and procedures for its amendment are the same as for its adoption. It is not easily amended. There are no provisions for the exercising of discretionary powers by the planning authorities. Regulations are very specific since most of them have developed through the proceedings of the United States' courts. The aim of a zoning by-law is to preserve the "status quo".

The development system treats zoning as an instrument of planning applied to ensure the best use of land and buildings. It is a flexible process and allows for discretionary action by the planning authority by introducing powers of conditional consent for interim development.

Conclusion

Summarizing the characteristics of both planning methods, we can say that the conventional planning system is static, unrealistic and inflexible. Its great-

est disadvantages stem from practices in the United States and arise from the inherent distrust of the American people in the integrity of their local government, i. e., the Planning Commissions are appointed to keep planning out of politics; the plan and zoning by-law are given legal status and are difficult to amend so that they will not be tampered with by local councils.

The development system is dynamic, realistic and flexible, better able to serve the purposes of planning which is an elastic process.

We have shown the application of both systems in the examples illustrated in this paper. Etobicoke, developing under the conventional method, shows evidence of growing pains. The planning board is frustrated in the execution of its functions by a plan that is outgrown by urban development and needs to be revised, by inadequate provisions for the control of subdivisions, by the absence of discretionary powers in the by-law and often by a none too sympathetic attitude of the council. In contrast, Oromocto is developing in a dynamic way. Money and positive powers of planning administration are enabling the Board of Commissioners, under the guidance of the town planner, not merely to control development but to instigate it, carry it out and produce a town of distinction.

Urban form under the conventional system of planning only develops by evolution. This often is a wasteful

process. Our environment is too important and it has too great an influence upon our lives to be left to chance and not to be controlled and moulded in a positive way. The development system endeavours to do exactly this; to effect urban form in a manner and an expression most beneficial to the community in every sense of the word.

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