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Subject: Excerpt from Color of Law on Planning Commissions -- related to our discussion on work plan

Please include in the Planning Commission public comments, if possible.

Excerpt from Chapter 3 of the Color of Law:

In the wake of the 1917 Buchanan decision [which struck down the prohibition of real estate sales to African Americans in majority White neighborhoods], the enthusiasm of federal officials for economic zoning that could also accomplish racial segregation grew rapidly. In 1921 President Warren G. Harding's secretary of commerce, Herbert Hoover, organized an Advisory Committee on Zoning to develop a manual explaining why every municipality should develop a zoning ordinance. The advisory committee distributed thousands of copies to officials nationwide. A few months later the committee published a model zoning law. The manual did not give the creation of racially homogenous neighborhoods as the reason why zoning should become such an important priority for cities, but the advisory committee was composed of outspoken segregationists whose speeches and writings demonstrated that race was one basis of their zoning advocacy.

One influential member was Frederick Law Olmsted, Jr., a former president of the American City Planning Institute and of the American Society of Landscape Architects. During World War I, Olmsted Jr. directed the Town Planning Division of the federal government's housing agency that managed or built more than 100,000 units of segregated housing for workers in defense plants. In 1918, he told the National Conference on City Planning that good zoning policy had to be distinguished from "the legal and constitutional question" (meaning the Buchanan rule), with which he wasn't concerned. So far as policy went, Olmsted stated that "in any housing developments which are to succeed, . . . racial divisions . . . have to be taken into account. . . . [If] you try to force the mingling of people who are not yet ready to mingle, and don't want to mingle," a development cannot succeed economically.

Another member of the advisory committee was Alfred Bettman, the director of the National Conference on City Planning. In 1933 President Franklin D. Roosevelt appointed him to a National Land Use Planning Committee that helped to establish planning commissions in cities and states throughout the country. Planning (i.e., zoning) was necessary, Bettman and his colleagues explained, to "maintain the nation and the race."

The segregationist consensus of the Hoover committee was reinforced by members who held positions of leadership in the National Association of Real Estate Boards, including its president, Irving B. Hiatt. In 1924, two years after the advisory committee had published its first manual and model zoning ordinance, the association followed up by adopting a code of ethics that included this warning: "a realtor should never be instrumental in introducing into a neighborhood . . . members of any race or nationality... whose presence will clearly be detrimental to property values in that neighborhood."

Other influential zoning experts made no effort to conceal their expectation that zoning was an effective means of racial exclusion. Columbia Law School professor Ernst Freund, the nation's leading

authority on administrative law in the 1920s, observed that preventing “the coming of colored people into a district” was actually a “more powerful” reason for the spread of zoning during the previous decade than creation of single-family districts, the stated justification for zoning. Because the Buchanan decision had made it “impossible to find an appropriate legal formula” for segregation, Freund said that zoning masquerading as an economic measure was the most reasonable means of accomplishing the same end.

Secretary Hoover, his committee members, and city planners across the nation believed that zoning rules that made no open reference to race would be legally sustainable—and they were right.