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THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT
PROJECT

LAND USE REGULATORY SYSTEM (ZONING)

Urban Zoning

INTRODUCTION
TO THE PROBLEMS OF ESTABLISHING A MODERN LAND USE
AND DEVELOPMENT SYSTEM IN RUSSIAN CITIES WITHIN A
DEVELOPING REAL ESTATE MARKET

A BROCHURE FOR CITY AGENCIES

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In addition to this Training Brochure, the Project published copies of the Zoning Ordinances for Kazan, Samara, and Vyborg and special studies on the following issues: *The Development Process on Leased Land, Subdivision, Interjurisdictional Land Issues, Servitudes, Reservation of Land for Future Public Needs, Historical and Cultural Preservation, and Environmental Protection and Land Use Regulation*. The Project also published a periodic newsletter addressing land use issues.

Copies of these materials and additional information on zoning and land use may be obtained from the following organizations and individuals:

PADCO Inc, suite 1126, 15 ul Chayanova, building 5, Moscow, 125267

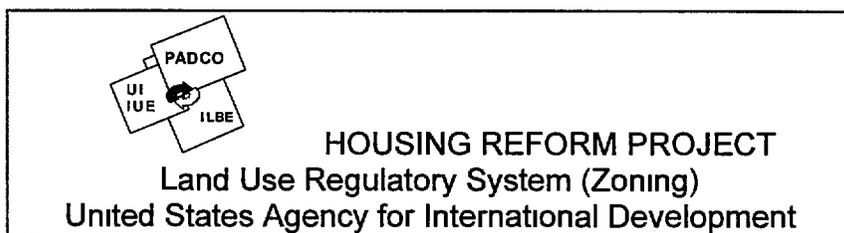
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Foreword

This brochure was prepared by the USAID Land Use Regulatory System (Zoning) Project. In preparing this manual, the authors tried to achieve several goals:

First, to demonstrate the need for reforms in the city planning system which developed during the socialist period of Russian history and which no longer corresponds to the new real estate market requirements and legal standards of a democratic society.

Secondly, to describe the basic principles of a new Russian, post-Soviet city planning system, which is based on legal zoning of cities and which anticipates the following:

- links between two processes - actions to introduce new zoning documents and at the same time reformation of the actual sequence of actions of city-planning administrative bodies,
- the opportunity to return to the generally-accepted market situation, where long-term possessory rights to a land parcel may be granted before architectural and construction documents are developed and approved, and not after the official registration of a finished project, as happens now in the majority of cases.

Thirdly, to show what benefits implementation of legal zoning will give to the city administration, investors, developers, real estate owners, and to the population of the city in general.

And fourthly, based on the legal zoning experience acquired in Russian cities, to show the sequence of events in order to carry out the initial steps in preparing local legal acts on "Land Use and Development Regulations".

The brochure is addressed

- to administrative officials of the cities - the participants of the Project, as well as to other cities which plan to start the development and implementation of legal zoning documents,
- to professionals in the spheres of city-planning, architecture, land surveying, economics, law, management, real estate appraisal, business, etc ,
- to students studying the issues of city development of public amenities and infrastructure, the creation and functioning of the real estate market, etc ,
- to western specialists who want to understand the specific features of problems in Russian city-planning legislation during the stage of market reforms.

Part I Questions and Answers Addressed to All Seminar Participants

1 Why Does the Current Land Use System Need Improvement?

In order to answer this question we need to look at the current land use system within the changed economic and social environment

Any city under any land use system, whether it is a centralized socialist system or a system based on successful use of market mechanisms, must solve real pragmatic problems such as efficient functional and spatial organization of different types of land use and development, providing municipal infrastructure for all types of construction, the capacity of which corresponds to current and future requirements, and providing rational time sequence for development of different city areas

Standard problems very often anticipate the availability of universal methods and solutions to these problems, regardless of the economic and social context This is what happened to the Russian land use system the context "is gone", but the system continues to exist with practically no changes

The changes in context are visible in two main directions

- the former unique owner of real estate - the state - has been replaced by many authorized owners
- the former unified system of centralized financing of all urban projects from the state budget collapsed and has been replaced by many sources of private investment

Today, the existing system of urban planning does not match with the social and economic context and market reform requirements A number of paradoxes illustrate this fact The principal of them are

- investors do not have any legally valid information on opportunities for potential investments in real estate improvement,
- developers can not obtain guaranteed rights for long-term land ownership,
- owners of real estate do not have the opportunity to react efficiently to fast-changing market competition

Investors Do Not Have any Legally Valid Information on Potential Investments in Real Estate Improvement

Before, when there was only one authorized owner of land - the state, there was no need to set land use rights in a fixed legal form At every step of urban development, there was one and the same real estate owner, therefore the rights related to the type and parameters of land use could be considered by the authorized officials during an unlimited time period without any need to reach a legal conclusion at the end of the process

This situation of permanent legal uncertainty still remains. If we look closely, it is obvious that ownership rights for real estate use are not fixed at any of the stages of the urban planning process, in other words, the lists of permitted land uses and parameters of permitted alterations of sites for defined zones are not established, (for example, it is not done in the Master Plan). The document for the next stage (Project of Detailed Planning) is a more detailed one, and at the same time it cancels the document of the preceding stage (Master Plan) because it exercises more power on the area being planned. However, this detailed document requires an even more detailed document for the following stage (project of block development or particular land parcel development), which in a legal sense cancels the document of the preceding stage (project of detailed planning). Everything comes down to the targeted use of each specific land parcel, which contradicts the market situation of free choice under conditions of a competitive environment for better and more efficient land use.

Neither the prior nor the current system of urban planning documentation makes it possible to predict what is permitted and what is prohibited on a particular parcel (without a long process of planning for a particular site on a particular land parcel). Therefore, there is no foundation for a successful dialog between the city administration and a potential investor.

Developers Can Not Obtain Guaranteed Rights for Long-term Land Ownership

From the legal point of view the current overall situation is contradictory: construction alterations are introduced by people who do not have long-term ownership rights to the property. In the market environment, the ownership over property is acquired first, and then the development plan is drawn up and actual construction takes place. In this country it is vice versa, first of all one has to put together the development plan, then build and register the site and only after this can one acquire long-term ownership right to the developed land parcel. In other words, everything is “topsy-turvy”. Why?

The truth of the matter is that in order to buy the particular land before the full-scale planning of a project and the actual construction start, this land parcel needs to be created by somebody. This “somebody” is the city which was supposed to establish certain restrictions in the form of a list of permitted uses, maximum and minimum sizes and parameters for this land before the beginning of private development. But such parameters are not available right now. This gap in legislation is filled by the procedure of preliminary approval of the new building site location, so that these parameters are taken care of during the approval process. In each specific case the procedure is different and can be applied only to a particular parcel.

While the investor evaluates the feasibility of investing in a particular construction project, it turns out that the above mentioned parameters are not available, and therefore, there is no foundation for acquiring long-term ownership of the parcel. This results from the current system of documentation that does not require development of parameters which are addressed to parcels located within the boundaries of particular city districts.

The consequences are high uncertainty and rather high risks in capitalizing on investments, additional expenditures and time spent during preliminary stages, and the lack of a real foundation for establishment of a functioning mortgage system

Owners of Real Estate Do Not Have the Opportunity to React Efficiently to the Fast-Changing Conditions of Market Competition

The current system of planning resembles moving from the big end of the funnel to the little end the initial (at the initial stages of planning) rather wide range of permitted uses of property, step-by-step (through the intermediate stages of planning) becomes narrower and narrower (by adding more details) until it is narrowed down to “a targeted use”, established and fixed by an approved plan for a particular site The targeted use does not give any free choice It specifically states “the permitted use is what is permitted” The targeted use is very strongly “tied” to the site during the transfer of the site from one owner to another The existing procedures are more likely to protect the unchangeable targeted use than to support any changes to it The latter is always accompanied by considerable procedural hurdles

Under this approach, the owners are unable to quickly solve issues of functional adaptation of their property to the market environment and to quickly switch to more efficient types of uses

The above mentioned contradictions prove that the current urban planning system is not yet oriented towards efficient land use and it needs improvement

2 What is “Legal Zoning”? Who Needs It and Why?

Legal zoning of city areas is the fundamental legal tool which regulates land use and development within city boundaries in a market environment. Legal zoning acts as a mechanism for implementation of urban development plans and plans of local communities and citizens to improve the living standards within the area.

Legal zoning is the process of dividing the city area into a number of zones with fixed boundaries. For every zone and for every parcel located within these zones, the rules of land use and construction alterations are defined. The rules include

- types of permitted property uses (the owners are entitled to choose the types of land use, as well as to change them in accordance with market trends, in some special cases a number of specific conditions must be observed in order not to cause any damage to the neighborhood),
- limits (maximum and/or minimum) of the area and size (width and length) of parcels,
- parameters of permitted construction
 - minimum set backs between the building and the parcel boundaries
 - maximum parameters
 - height/ number of floors of a building,
 - percent of the area developed (ratio of the area under construction to the whole area of the parcel)
 - coefficient of land use (ratio of a building footprint to the whole area of a parcel)
 - markings of parking lots and other parameters and requirements

Legal zoning is implemented by local self-government agencies, the results of legal zoning are set out in local legal acts, for example, in “Land Use Regulations” of a city or a settlement. These legal acts are mandatory and must be observed by all entities which participate in real estate alterations or are related to it - by administrative control agencies, owners of real estate, developers, contractors. The rules form the foundation to resolve disputes in courts.

The legal acts mentioned above consist of two parts: a text and maps. The text contains legal parameters and a description of procedures connected with preparation and implementation of construction alterations to real estate. The second part contains the city zoning map (maps), as well as a description of requirements and restrictions on use and construction alterations to real estate within the boundaries of defined zones - the parameters of permitted use.

Legal zoning “works” for the real estate market and within the real estate market, in other words, where target requirements of the city government agencies as well as methods for implementing them must change radically. The rationale for these requirements now appears to be considerably different than before.

- local authorities can not claim unlimited ownership over all real estate in the city, they must clearly define the sphere of their responsibility, limiting it to a minimum list of sites which are essential for the functioning of the city as an integral system, at

the same time, they must limit their direct responsibilities - the city must create and retain active mechanisms to influence the city development process indirectly, using the initiative and funds of private entities, this focuses attention on the establishment of an urban planning system of cooperation between city authorities and private entities - the owners of real estate and potential investors

- an urban planning system of cooperation requires local authorities to establish beneficial conditions that will encourage private entities to purchase and improve real estate and will guarantee that their interests will be respected, these conditions must include three main components guaranteed long-term ownership rights to land which can be secured by loans, information on rules of permitted uses and construction alterations to land parcels and real estate within the city, an effective mechanism to finance the construction of infrastructure as a foundation for investment in construction on prepared and privately owned areas

During the process of stabilization of market relations, the need for this kind of cooperative system grows, and vice versa - the establishment of this system lays the foundation for a civilized real estate market and provides for its gradual development

Legal zoning is the starting point for establishing this kind of partnership, which is equally essential to its main two parties - municipalities, on the one hand, and potential owners of real estate, investors and developers, on the other hand

By means of zoning, municipalities get an opportunity to implement their area development policy and local social programs more effectively The main components of this policy will be

- reservation of land for municipal use, which is used for transportation, technical and social infrastructure (including land for municipal residential construction), and identification of land which can be transferred to private ownership - to investors and developers

- encouragement of privatization of excess municipal lands that is not needed for social/municipal functions, including sale of lands to privatized enterprises, organization of auctions and bidding which will provide for implementation of investment projects and private housing construction

- concentration of budget funds for social programs using the so called "cumulative zoning effect" This effect emerges as a result of a chain reaction, the impulse for this reaction is the legal guarantee of ownership and use of real estate This guarantee decreases investment risk and increases the price of real estate because the possibility to get a mortgage loan increases and construction activity increases The growth of real estate prices leads to an increase in tax payments to the local budget The expansion of construction increases the fixed assets of enterprises, their ability to increase production and provide for new jobs

For real estate owners, developers and investors (as well as for people who aspire to this status)

- first of all, the situation rights itself from "topsy-turvy" to its normal condition at the outset, the owner will acquire ownership of land with a package of precise guaranteed rights and then the owner will prepare a full-scale development plan and will begin the actual construction (refer to Diagrams 1 and 2),

- secondly, the number of real estate owners will increase as a result of the establishment of an open real estate market with information available, where legally created sites will be available to potential investors,
- thirdly, investment activity grows, the risks to invest in real estate decrease, there is a opportunity to choose the most efficient use and to react to changes in the market situation,
- fourthly, the financial abilities of real estate owners grow due to expansion of mortgage lending

However, some administrative agencies may consider legal zoning as a useless and harmful “intervention” in their work. If legal zoning is in place, they may lose the opportunity to make subjective decisions while considering and approving development projects, because these decisions can be taken to court based on precise legal criteria. Apart from this, legal zoning will eliminate a great deal of the routine but very well-paid work of these agencies. It is obvious that benefits from legal zoning substantially exceed the minor losses.

3 How Does “Legal Zoning” Relate to Urban Planning and Land Use?

Zoning in the form of local legal acts works within the system of urban planning documents

Legal zoning is the tool for implementation of city development plans. It requires an initial planning document as its foundation. This document is the Master Plan. In their turn, legal zoning documents provide a foundation for execution of documentation for the following stages, leading up to construction projects at particular sites. The content of urban planning documents at the municipal level can vary depending on the policy of local self-government agencies and the specific features of a particular city. The following outline can be used as an example (model)

- 1 City development document - the Master Plan,
- 2 Local legal act which regulates use rights and construction alterations - “Land Use (zoning) Regulations”
- 3 Urban planning documents applied to city areas - planning projects, subdivision plans,
- 4 Specific site plans

The Master Plan

The legal status and content of this document must be changed according to the new conditions of a market economy

The legal status of the Master Plan must be defined by the following features

- it will be addressed to local self-government administrative agencies in the form of recommendations for development and improvement of the city area as a whole and in the form of direct guidance as far as local infrastructure development is concerned,
- it will be open to the public,
- it will contain basic information for development of local legal acts - legal documents connected with legal zoning

The Master Plan will have less authority as compared to the zoning documents. The Master Plan general provisions will be precatory in nature and will not represent direct guidance for implementation by real estate owners. These provisions, which were taken into account in the zoning documents, will be converted into legal form primarily as lists and descriptions of parameters for permitted uses and construction alterations to real estate within different zones. The provisions of a legal/technical document (the Master Plan serves this purpose today) must pass through the filter of a legal act (in the form of zoning documents) and only after this can they be directly addressed to all real estate owners and other entities as mandatory guidance

The content of the Master Plan must also be changed. It could contain two parts: a strategic plan and a spatial plan

Part I, the strategic plan, sets

- a realistic evaluation of the city's existing and potential resources,
- two or three scenarios of possible city development based on different versions of its position in the context of the regional and national economy,
- concepts for city programs to encourage city construction as applied to each of the scenarios

Part II, the spatial plan, sets

- a rough description of functional zones from the point of view of their potential capabilities for different types of construction and their relation to other functional zones of the city,
- a description of the main transportation and engineering infrastructure, as well as general programs for their construction, maintenance and financing

The spatial plan may contain recommendations for development of legal zoning documents as well as a foundation for this development in the form of charts of land use restrictions for different reasons - historic preservation, ecology, preservation of natural landscapes, balance between developed and undeveloped areas and so on

Local Legal Act Which Regulates Rights of Use and Construction Alterations to Real Estate - "Land Use Regulations"

"Land Use Regulations" set official boundaries for the territorial zones with a list of permitted uses and construction alterations within these zones

The Regulations are used as the legal foundation for approval of construction projects of actual and potential real estate owners and for issuance of construction permits for particular parcels, they are also used as the framework for development of particular areas of the city connected with setting, changing and re-planning land boundaries and registration of real estate sites

Urban Planning Documents Applied to City Areas - Planning Projects, Projects of Land Subdivision

Planning projects They retain their significance as an important component of the urban planning system, but must be modified depending on whether they are prepared for newly developing areas or for the areas being redeveloped They set

- spatial structure of the developed area in the form of a general plan or a concept,
- red lines,
- plan for development and improvement of the area depending on the investment and construction goals of the developers,
- feasibility study of the effective use of the area

Specific features of projects

- the improvements are planned not as a one-time action, but as a combination of many small projects implemented partly by the municipal authorities and partly by a number of private entities,

- the strategy of activities to be conducted by municipal and state agencies to encourage and administer the process of attracting maximum investment in project implementation is developed,
- the issues of financing infrastructure construction and issues of reimbursing the funds spent by the city for infrastructure are solved, these issues are solved within the framework of city plans for capital construction of municipal infrastructure
- planning projects may include land subdivision projects, though they are not mandatory and can be developed later as a separate stage of planning, as described below

Land Subdivision Projects

Set

- the boundaries of parcels including land reserved for public use,
- location of streets, access, infrastructure routes, boundaries of public servitudes

The purpose of the document is

- to provide the foundation for creation of land parcels as real estate units according to zoning parameters, requirements of shape and size,
- to provide rational planning of the area so that every land parcel has its own access to the street/road and to infrastructure and to set (if required) the boundaries of public servitudes and prevent inefficient land use

Specific Sites Projects

Specific features though the city has no opportunity to control the timing and number of construction projects implemented by private entities, it (the city) has very effective tools to influence this process (in the form of zoning and preparation of municipal infrastructure)

These projects set (according to the zoning rules, construction parameters, infrastructure hook-up rules, and other requirements) specific parameters and characteristics for individual construction sites

The key to efficient city planning in Russia is not large-scale, complex and one-time construction activity, but the accumulation of small projects and small investments, implemented on a permanent basis within the framework of stable legal guarantees

By planning the small and gradual growth of construction activity, cities will be able to attract a large number of investors and people who will participate in the economic development of the city, which will lead to the establishment of the real value of land

4 What Problems Does the City Have and How Can Zoning Help to Solve Them?

Zoning provides the legal foundation for urban planning activity and thereby helps to solve the problems of two main groups of participants in this activity

- the cities as social, economic and administrative institutions
- private entities which acquire ownership of sites and improve them

The process of solving problems with the help of zoning has its own specific features. First of all, zoning does not solve any problems, it prepares necessary legal conditions so that problems can be solved by means of actions whose character and scale are stipulated by zoning. Secondly, zoning defines the direction in which problems will be solved through prohibiting one type of action and encouraging another. Thirdly, zoning does not guarantee that the actions stipulated will take place (without certain efforts of municipal authorities and private entities), but zoning guarantees that actions which are not permitted will never take place. Thus, the negative consequences of these actions and undesirable trends in city development will be blocked. Fourthly, zoning helps to solve the problems of the city by means of the efforts and financial resources of private entities - investors and developers.

City development problems which can be solved with the help of zoning can be combined in three main groups

- problems of financial resources for development
- environmental problems
- problems of spatial resources for development

Problems of Financial Resources for Development

The main internal resource for city development is land. Zoning, as it defines use, sets the value of the land and its price not only for the present but for the future as well. Just because the use is guaranteed by a proper legal document, the real price of land starts to be taken into account when conducting real estate transactions. Understanding the real land value encourages the formation of local budgets based on collection of a fixed annual percentage of that value. Cities obtain a stable internal source of revenue which can be used for city development and is based on taxation of real estate according to its real market value.

Zoning creates conditions for attracting external investment from private entities and agencies. This is due to three main reasons. The first one is the availability of legal guarantees for the appropriate type of land use aimed at implementation of construction investment projects. The second is the possibility to acquire ownership rights before the actual design work and construction, and these rights open the way to mortgage loans. The third is the possibility to reduce the time spent on obtaining different types of approvals and permits for investment and construction activity as well as a reduction in the costs of these procedures. As a result, the process of investment in city development grows and the pace quickens.

The cities have more opportunities to solve their infrastructure problems. This is primarily the result of increased tax payments, and secondly, of a well-functioning mechanism to recover municipal money spent for these purposes.

Environmental Problems

Zoning helps to effectively solve ecological and aesthetic problems of the city environment. For this purpose, it has at its disposal specific legal standards. By setting the types and parameters of permitted use, zoning fixes at least the "minimum level" of the environmental quality applied to different zones. What has not been set by an appropriate legal act can not take place, and, consequently, the continuing decline in the quality of the living environment will not take place. At the same time, what has been permitted, encourages action in directions which improve the current situation.

In the zoning document there is such a legal parameter as "non-conforming use". According to this parameter, those sites which existed before the zoning system was introduced and whose characteristics and parameters of use contradict the zoning requirements are declared non-conforming and continue to operate in a special regime. They can be used and maintained under the condition that the degree of non-conformity will not increase. Any further alteration of these sites must bring them into conformity with the zoning regulation.

As far as the problems of city development are concerned, zoning performs a dual task. It represents a legal mechanism for implementation of the urban development policy, and at the same time it provides for close cooperation between the legal mechanism and economic mechanism and brings the latter into operation. Collaboration of these two mechanisms makes it possible to solve problems which before were difficult to solve, for example, modification and replacement of harmful production. This can be better demonstrated by the following example.

A polluting factory in the city center that is privatized together with the land parcel is a very common situation for Russian cities. The city wants to create a public business center in this area. These goals are set forth in the Master Plan. But the city can not put its plans into effect. Why? Because there is no legal mechanism and, consequently, no connection with the economic mechanism. The fact is that the urban planning documentation (in this case - the Master Plan) remains incomplete from the legal point of view. It does not contain a list of permitted uses for the area where the factory is located.

If such a list had been available, it would have provided more efficient types of uses than those that the factory has now. As this area was proposed for construction of a public business center, the list would have contained such uses as - banking and insurance business, shops, restaurants and so on, the profitability of which is originally much higher than that of the production activity.

If the Master Plan had contained such a list, the factory - under the influence of economic factors - sooner or later would have to move to another place or modify its type of production. For example, the price of land would have increased substantially together with taxes. In order to pay such high taxes, the factory has to generate more profit, which it can not achieve in its present condition. But it would not be a tragedy for the factory owners. They have different opportunities facing

them they can mortgage the land, take a loan, buy a cheap land parcel in the city suburbs and build new premises for the factory or they can sell the factory to another owner who will be able to use the land in the city center more efficiently. The more efficient use of land in this case would mean the construction (according to the zoning requirements) of a new business center, which is so much desired (in vain) by the city.

It must also be mentioned that the presence of legal zoning makes the economic mechanisms work - mechanisms of implementation of the urban planning policy of the city. The economic mechanisms do not work until legal zoning is in place.

Problems of Spatial Resources for Development

Zoning helps to solve problems of spatial resources for future development of the city. There are four main ways to carry out this activity:

Reservation of vacant land for specific functions in accordance with anticipated needs Specific zones are set in the appropriate areas, for example, residential or industrial. These areas will be used in the future for these purposes.

Reservation of vacant land for undefined future uses The following method is usually used in these situations. The zones of so-called low development or zones of agricultural use are set. The setting of these zones will mean that active construction will not take place in these areas. If the need to develop these areas arises over time, rezoning will be accomplished according to the requirements of the particular type of construction.

Modification of existing zones This method is applied when there is an excess of specific types of areas. For example, there is an excess of industrial areas with low efficiency of use and obsolete construction (which is typical for Russian cities). In this case, a decision to change the zoning for these areas must be made, for example, changing this area into a residential or business zone. This will mean that the industrial activity may continue in these areas for some time without any increase in the amount of industrial construction. Over time, when the city saves enough funds or when private investors show their interest, these areas can be modified according to the type of use (residential or business) defined by zoning.

Reservation of Land for Expansion of Construction beyond the City Boundaries

The solution to this problem is blocked right now because in the majority of cases it is connected with annexation of additional territories to expanding cities. This process meets a lot of resistance from the neighboring administrative regions which do not want to lose their lands. Zoning makes it possible to change the emphasis while solving this problem. The legal zoning documents for the suburban area are prepared by a number of interrelated municipal agencies. After these documents are approved, they start to regulate the spatial subdivision of the area into different types of uses and development taking into account private and public interests. In other words, the essence of the problem - legal and economic solutions to the problems of cooperation.

with the suburban areas - occupies the first place, and then come the problems of alteration of administrative boundaries of different areas

5 Special Features of Land Use Regulatory Systems in Different Countries Can Foreign Experience be Applied to Russian Cities, Does it Need Modification and What Kind of Modification?

As the special features of national urban planning systems are interesting to us from the point of view of their implementation in Russian conditions, it is important to concentrate not on the numerous various and sometimes contradictory details of these systems, but on their principal typological differences. In this respect, the following aspects should be clarified:

First General principles of legal zoning exist in opposition to or regardless of national features, the need for and applicability of zoning in the domestic practice

Second Main typological groups of zoning systems and their general characteristics

Third Who defines the selection of a particular legal zoning system, multiple ways of maintenance and different types of zoning, typological features of zoning modified according to Russian conditions

General principles of legal zoning exist in opposition to or regardless of national features

Legal zoning exists within a real estate market where real estate can be conveyed from one owner to another. This fact principally distinguishes the system of legal zoning from the socialist urban planning system where real estate belonged to one permanent owner - the state, and in these conditions real property could not be conveyed from one owner to another. Under market conditions, there is an objective requirement to set such ownership rights that can exist with no direct dependence on the goals of particular owners and can remain, in the event the owner changes. This is the fundamental principle typical of all zoning systems. The differences between systems are in how these rights are established and applied.

The Russian cities, which start to develop their local real estate markets, are not exceptions to the universal rules of the market. That is why they face an objective need to introduce a legal zoning system.

As far as implementation of zoning in domestic practice is concerned, two aspects of a historical and technical nature should be mentioned. During the "pre-socialist" era of our history, when market relations existed in Russia, zoning principles were used in urban planning, but were not developed due to the radical change in economic conditions. As far as the technical aspect is concerned, we can say that zoning principles (in the pragmatic terms of functional and construction zoning) were used even in socialist times. That is why we do not have any basis to state that legal zoning is a totally outlandish tool for the Russian urban planning system as far as its applicability is concerned.

Main typological groups of zoning systems and their general characteristics

Two main criteria for comparing the national systems of legal zoning make it possible to distinguish their main differences without concentrating on details, they are

- the degree of freedom that administrative agencies have to interpret substance of the rights set by the zoning documents,
- the “techniques” of setting land use rights

Making a comparison according to the first criterion, it is easy to establish that Russia is very far behind many developed countries as far as our officials' understanding of the regulations is concerned. In this sphere they have maximum freedom. The source of this doubtful freedom is the absence of appropriate legal acts where the rights for real estate use are explained in a legally correct way.

The problem of limits of interpretation of the rights for real estate use has the following origin. These rights fall into two groups of so-called “routine” and “random” rights. Routine rights are rather simple and clear rights, which can be legally described in just one way. There are practically no problems in understanding these rights due to their preciseness, and, consequently, there are no situations, where officials make decisions on their own. However, restrictions on use and real estate alterations can not always be described in a precise and non-contradictory manner. One and the same type of use may be both permitted and prohibited at the same time depending upon the existence or fulfillment of particular conditions. Just because these conditions are not clearly defined, misinterpretations or the need for additional approvals arise. These situations are solved by approval procedures with participation of real estate owners and the public (public hearings) as well as by means of a precise division of responsibilities and jurisdiction among administrative agencies regarding certain aspects of the issues under consideration.

The balance between “routine” and “random” rights is influenced by cyclic dynamics. The area of implementation of some of one periodically grows, and, correspondingly, the area of implementation of the others declines. Over time, they reach a certain balance in different legal zoning systems. However, there is no basis to state that there is any obvious typology making it possible to distinguish different legal zoning systems according to this criteria, except England which, in this respect, is an outstanding example. In this country, significant rights to consider a situation relevant to the development and implementation of zoning documents are granted to the Ministry of Environmental Protection.

The “Method” of setting land use rights

As far as this criterion is concerned we can speak about it with a great degree of certainty by making some comments about two types of zoning systems - the American and West-European.

The American type of zoning, existing in the USA, is characterized by the following features as far as “methods” are concerned

- independence of local self-government agencies in implementing zoning together with a lack of coordination of the interests and plans of adjacent municipalities related to regional zoning,
- while planning the development of municipalities, the policies of development in different areas are emphasized in the form of strategic plans of social and economic development, spatial aspects in the form of Master Plans are precatory in nature (except for some states where these documents are mandatory and are used as a foundation for development of local zoning documents),
- the zoning of municipalities is very often implemented in one stage - zoning of the whole area according to all criteria - types of permitted uses of real estate, parameters of permitted alterations and maximum and minimum sizes of land parcels for all defined zones,
- planning projects are very often developed in the form of subdivisions of vacant (agricultural) land for future development, they are based on zoning and subdivision standards, some amendments to zoning parameters which must go through the approval procedures may be proposed by these projects

“West- European zoning system” It is obvious that there is no such system. There are a number of national systems which differ from each other. The unified term has an arbitrary meaning and is used to show certain similar characteristics of these systems (first of all the systems of Germany and France) which are different from the characteristics of the US system. The specific features of “West-European zoning system” are as follows

- independence of local self-government agencies together with coordination of interests of adjacent municipalities and top government agencies by means of regional development plans,
- there is a two-stage system which is put into effect at the municipal level, the first stage is the development of general spatial schemes/plans which are precatory in nature - authorizing schemes (France) or land use plans (Germany), the second stage is the development of local zoning legal acts - land use plans (France) or development plans (Germany), the second stage is the development of local legal zoning documents - land use plans (France) or development plans (Germany),
- municipal zoning is represented by a full package of documents (land use plans, development plans), each of which covers only one city area or administrative region, rights related to permitted uses and building standards are set with a high degree of clarity and detail

Who defines the selection of a particular legal zoning system, different ways of introducing zoning and different types of zoning, typological features of zoning modified according to Russian conditions

According to the Law of the Russian Federation “On Basic Principles of Local Self-Governance”, the authority to define municipal planning and development is given to local self-government agencies. That is why these agencies will define the specific features of the legal zoning system implemented in their areas. In this respect

we can anticipate a great number of variations in these systems, especially in the beginning. The process of “diversification” of zoning can be observed even now. Obviously, it would be useful to develop at the federal level a set of appropriate recommendations for local self-government agencies in the form of (for example) “Guidelines for Land Use Regulations” which, if used by municipalities, may serve as an example for local legal documents in this sphere, but according to a certain rational scheme.

One of these schemes, which is applicable to Russian conditions taking into account foreign practice as well as legal zoning experience, may be as follows:

- “Urban Policy Principles” are developed and approved as a foundation for the development of a local legal zoning act,
- a local legal zoning act is developed and approved. It includes (together with basic legal requirements) a zoning map of the whole city area with a list of permitted uses related to all zones, special construction parameters and sizes of land parcels can be set for particular zones.
- after a local legal zoning act has been introduced, the process of introducing additional parameters related to types of permitted alterations in particular areas continues, if needed, types of permitted uses may be adjusted based on specific ecological, historical and aesthetic restrictions, this activity is carried out in the form of experimental and analytical work and/or in the form of planning projects, amendments to the legal zoning documents are introduced according to established procedures after the results of this work are obtained.

The above scheme is different from the systems implemented in the developed countries. At the same time, it possesses features of the two main types of these systems - American and West-European.

It contains the elements of the American system as far as zoning of the whole area according to the types of permitted uses is concerned. This approach is essential and justified under Russian conditions for two reasons. First, of all it makes it possible to implement zoning not as random actions which are not connected with the general urban development context, but as a regulatory system. Second, the maximum degree of assurance related to future land use is reached and any damage to its owners is avoided.

The above scheme contains the elements of the West-European system as far as setting the parameters of permitted construction and alterations by means of planning projects developed for special zones and city areas is concerned.

Part II. Questions and Answers Addressed to Local Project Participants

6 What are Possible Plans for a Step-by-step Establishment of a Zoning System, and What Plans Should be Preferred?

Implementation of a zoning system is connected with a specific process with specific period of time. This process is the result of technical, organizational and administrative circumstances.

First of all, the development of zoning documents is connected with finding solutions to non-traditional and difficult problems. It is primarily related to setting parameters and sizes of land parcels and types of development for different zones. This task can be considered new because the past practice of setting legal norms in our country was focused on setting parameters related to city areas - such as districts and blocks - and was not related to land parcels. That is why the consideration of this problem is connected with the analysis and revision of different parameters in order to adjust them to the requirements of legal zoning.

Secondly, zoning-based urban planning presumes the structural and contextual reorganization of the activities of the administrative and social agencies involved in this process. It also requires time and experience in order to enforce these agencies in the future by means of legal acts.

All this requires that cities which have chosen the path of reforms face the problem of developing conceptual schemes for step-by-step implementation of zoning, taking into account their specific features and conditions.

As an example of one of the approaches to a solution to this problem, the following main provisions of "Model Diagram of Step-by-step Introduction of a Land Use System Based on Legal Zoning" were developed based on the Novgorod experience. The diagram is based on the following basic aspects:

- to figure out two main stages of the process: the first stage - Draft Land Use Regulations, the second stage - improving and deepening the content of the regulations by introducing changes and amendments,
- The Draft Land Use Regulations were supposed to solve a "dual" problem: to make the document work from the time of its approval and to provide for its continuous operation and development within the framework of a unified structure. As far as the definition of rights is concerned, the draft of the regulation gives a detailed list of permitted real estate uses located in all defined zones, but it does not yet provide for the parameters of permitted construction. This task is solved at the second stage that is connected with introducing changes and amendments to the approved regulations,
- to make the contents of all urban development documents, which are developed after the regulation is in place, concrete by taking into account zoning requirements for use.

rights and construction alterations as well as for setting and enforcing boundaries of parcels as real estate units

- focusing on the gradual integration of the process of obtaining ownership rights in the initial stage of the investment and construction process, and not in the final stage, as it is now

Brief Characteristics of the First Stage

Step 1 Analysis of the urban planning prerequisites for zoning, preparation of “Urban Policy Principles”

Step 2 Preparation of technical materials

2 1 Preparation of maps which show present land use, city structure, possibilities of future development from the point of view of infrastructure limitations

2 2 Analysis of the laws and legal acts at the federal, oblast and local levels related to land use and urban planning

Step 3 Preparation of zoning maps and the text of the “Land Use Regulations”

3 1 Development of concepts for different types of zones and recommended compatibility of permitted uses of real estate within these zones

3 2 Preparation of procedural rules and requirements

3 3 Development of parameters for permitted construction within the boundaries of parcels related to different types of zones

3 4 Definitions of development limitations and marking them on the map

Step 4 Discussion and approval of “Land Use Regulations” with professionals and citizens

4 1 Work with administrative agencies and city/oblast services

4 2 Discussion of project materials with professionals

4 3 Official approval of “Land Use Regulation”

4 4 Information campaign in mass media

Steps 1-4 Information and educational work at every stage of the process
As a result of introduction of “Land Use Regulations” (first step), the procedural schemes are changing. Their main feature is that long-term land ownership rights are given after the project documents are presented and before the actual construction takes place (and not after the site is finished and registered, as happens today)

Brief Characteristics of the Second Stage

The contents of the tasks of the second stage are very dependent on the fulfillment of the tasks of the first stage and may include the following steps

1 Development of the parameters for permitted uses related to different types of zones (for the zones where these parameters were not set during the first stage)

1 1 Development of the parameters by means of analytical and experimental work

- 1 2 Development of the parameters related to the zones of the central part of the city by adjusting the boundaries of historic preservation zones
- 2 Setting the boundaries of parcels as real estate units
 - 2 1 Setting (adjusting) red lines, boundaries of planning units - districts, "micro-districts" and blocks,
 - 2 1 1 Preparation of diagrams (flow charts) for the development of a network of sites, infrastructure and transportation routes
 - 2 1 2 Development of red line plans (planning projects) related to priority development areas (in compliance with two-year plans of development/reconstruction of municipal infrastructure)
 - 2 1 3 Development of two-year plans for financing construction/reconstruction of municipal infrastructure
 - 2 2 Setting the boundaries of land parcels (existing and new) within the boundaries of red lines of planning units - regions, districts, blocks
 - 2 2 1 Development of planning projects for subdivision of newly developed areas into parcels
 - 2 2 2 Development of planning, re-planning and subdivision projects for the developed areas
- 3 Development of a zoning map for suburban areas
 - 3 1 Making a mutual decision by local self-governance agencies of the city and adjacent municipalities on the development of a zoning map of the suburban areas
 - 3 2 Development and approval of the concept of urban development of the suburban area
 - 3 3 Development and approval of "Land Use Regulations of the Suburban Area"
- 4 Other tasks connected with expansion of the urban development system based on legal zoning
 - 4 1 Preparation of local legal acts, documents and materials which encourage auctions and tenders for land sales
 - 4 2 Preparation of local legal acts, documents and materials which connect zoning regulations with land lease procedures
 - 4 3 Encouragement of preparation and approval of an oblast law "On Responsibilities in the Area of Land Use"
 - 4 4 Establishment of a system that will monitor land demand for different types of construction in different city areas in order to improve "Land Use Regulations" by implementing changes and amendments
 - 4 5 Development of standards for the permissible environmental impact related to different industrial zones

At the end of the second stage of implementation of legal zoning, long-term ownership rights may be granted before the project documents are approved and before actual construction begins

7 Examples of Questions Prepared During the Work on “Basic Principles of Urban Planning Policy” Document

The document is developed as a foundation for legal zoning and must define the general directions for city development in the form of political concepts. It is recommended that provisions of the document be developed according to the following basic concepts and 24 key questions.

General concepts of anticipated demographic, social and economic development

1) For what period of time is the urban planning policy being developed? 10 years? 15 years? 20 years?

2) What will the future population be? What will be the increase (decrease) in population? What are the factors influencing this forecast: natural increase, migration as a result of national policy, migration as a result of increased industrial production, migration as a result of moving from villages to cities?

3) What are the predictions for the city's future role in the region, country and international life: historical center, oblast center, industrial center, cultural center, educational center?

4) What are the main types of production located in the city and how many people work at these enterprises now: chemical industry, electronics, food-processing industry, tourism, other?

5) What are the anticipated increases (decreases) in the number of people working in these industries? National plans for expansion and investment in these spheres? Enterprise plans? Market research? Comparative analysis of development trends (national, international) for these industries?

City - Region/Oblast

6) What are the main types of production in the city and how do they relate to the economic functions of the city?

7) Is the city a market center, transportation or distribution hub for the regional industry and consumer market?

8) What are the facilities and services connected with the city operating as an oblast center? Do enterprise representatives and citizens come to the city administration and court in order to solve administrative and legal issues? Is this sphere of activity growing or is it anticipated that it will grow as a result of privatization and reforms?

9) Are there any associations of lawyers, real estate brokers, financial and bank specialists, insurance companies and so on which provide services connected

with the city's role as an administrative regional and legal center, transportation and distribution hub of the oblast ? Is this sphere of activity growing, is it anticipated that it will grow and up to what level?

10) What is the status of tourism (increase or decrease of national and international tourism)? What are the predictions for growth? (anticipated types of tourism, types of transport and services used)?

Housing policy

11) Is there a housing shortage? What is it? How was it calculated? National indexes, sq m /person ? Analysis of the list of people waiting for apartments? Other assumptions and indexes?

12) What is the city policy as far as new forms of housing is concerned? Individual single-family houses, low-rise apartment buildings, administrative buildings, high-rise buildings?

13) What are the assumptions that are used for predicting the number of housing units which are to be constructed with respect to financing (state and private sources), balance of the forms of ownership (private, cooperative, enterprise, municipal ownership)?

14) What areas and parcels are designated for future housing construction? What is the level of planning (detailed planning) which has already been performed for these areas, what are the parameters (density, types of buildings, height and so on)? What is the financial and construction strategy being applied to these areas?

Engineering and technical infrastructure

15) How are the capacity and the possibilities to modify main infrastructure systems evaluated transit transport (automobile and rail road transport), streets, public transport, water supply system, sewage, heating system electric supply system, other?

16) What are the plans to expand and modify these systems? What is the basis for these modifications growth of the number of users, development of new areas, replacement of old systems, implementation of new technologies?

Cultural and public services

17) What is the current assessment of the level of public services' quality in different parts of the city? What are the predictions for expansion and modification of these services? What is the foundation for these modifications evaluation of demand based on state norms and requirements, evaluation of demand based on market research, other assumptions?

18) What is the city policy related to providing different kinds of services in the future privatization of public services which are now owned by the city, providing beneficial conditions for private entrepreneurs, additional funding of municipal public services, issuance of licenses for kiosks, providing other spatial opportunities for market activity?

19) What is the policy related to spatial distribution of public services state norms, market analysis, analysis of supply?

Ecological issues

20) What are the main environmental protection programs additional financing of polluting production in order to reduce exhausts, relocation of industries from the city center to suburban areas, reservation and protection of open spaces, management of public transport, development of infrastructure, other?

21) What are the assumptions for other policies possibilities of financing, management efficiency, special plans of production industries, special plans of state ministries concerning responsibilities for protection of water resources, woods, agricultural lands, other programs and plans?

Historic preservation

22) What are the main policies related to historic preservation preservation regimes of separate landmarks, preservation regimes of historic areas, regime and regulation on protection of archeological layer, other?

23) What are the assumptions for the policies on continuation of state financing of renovation and maintenance of historical landmarks (particular types and classes), private initiative and investments in renovation of historical landmarks, possibility of integration of new construction into historical areas, special legal and administrative measures in order to generate resources for historic preservation and renovation of landmarks (special taxes, revenues from tourism, special funds and so on), other?

Real estate policy

24) What is the policy related to land allocation, land privatization, privatization of real estate of different categories auctions, tenders, non-competitive (targeted) methods