POWERS OF ZONING LAW ARE DISCUSSED

W. B. Shively Gives Review of Authorities.

REALTY BOARD ADDRESSED

Los Angeles Ordinance, Upheld by Federal Supreme Court, Cited as Example.

BY W. B. SHIVELY. Chairman legal committee Portland Realty Board. a zoning ordinance a valid exer

cise of the police power? It should be stated at the outset that no attempt here is made to discuss the zoning ordinance proposed to be adopted in the city of Portland. This article is confined to a review of the leading authorities on the

general subject. It is first necessary to define wha is meant by the police power.

Our own supreme court in the case that police power is merely another name for the power of government which it is the duty of the govern-ment to exercise whenever policy de-mands regulation to guard the public morals, safety, health and welfare. In State vs. Bunting, 71 Orc. 257, the court saids "Police power extends to all great public needs. It may be by usage or held by the prevailing porality or strong and preponderant plain to be greatly and immediate-y necessary to the public welfare." The supreme court of the United States said in Lawton vs. Steele, 152 U. S. 122, 38 L. Ed. 385:

The state may interfere wherever the public interests demand it, and in this particular a large discretion is necessarily vested in the legislation to determine not only what the public

prohibiting child labor and regulating that of women, prohibiting deceitful advertising, prohibiting wooden build-ings in cities—in fact every law looking to public safety, morals, wel-fare and prosperity is justifiable as an exercise of this government func-

The precise limits within which the police power may be exercised have never been defined—and possibly never will be—for progress constant-

Supreme Court Ruling Cited.

If the court should answer these questions in the affirmative, then, and not discriminatory, would have and read the application for member-

The supreme court of the United The supreme court of the States has passed upon almost the augurate a membership campaign, to se question in no uncertain terms. precise question in no uncertain terms.

In the case of Hadacheck vs. Sebastian, 239 U.S. 394; 60 L. Ed. 348, the supreme court construed an ordinance of the city of Los Angeles dividing that city into 25 industrial districts and one residential district districts and district was that of conducting a brick yard. Hadacheck owned a lot within the or with J. W. Crossley, secretary or with J. W. Crossley, with J. W. notwithstanding the passage of the ordinance, whereupon he was arrested. He then attacked the constitution-

The question finally reached the stricted to the suppression of nuisand that when a region surrough a brickyard has become primarily a ner and Carl B. Wintler.

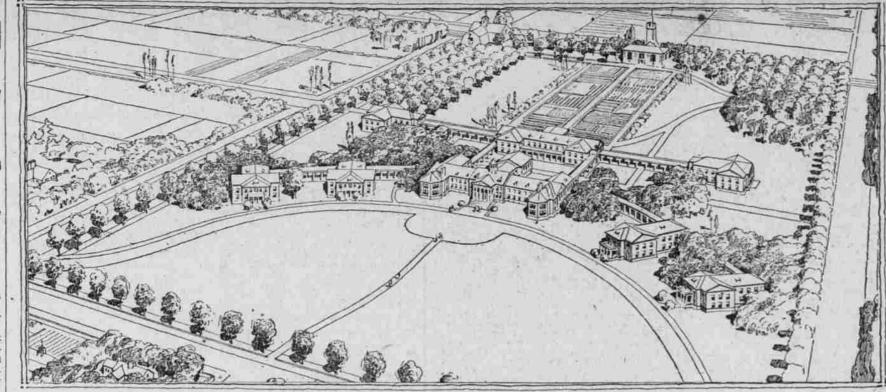
Two additional committees were

argued Hadacheck, "I purchased this land long ago, when it McKenna, L. E. Carter, J. Fred Staver, lay outside the city limits. No one A. R. Ritter and Herbert Gordon. ever believed the city would ever ex-tend that far and no residences were tend that far and no residences were then near me. For brick-making purposes this land is worth \$800.000, while for residential purposes it is worth not to exceed \$60,000. I have spent years of labor and thousands of dollars in building up a plant and equipment for the manufacture of fine lars in building up a plant and equip-ment for the manufacture of fine brick. My business is not a nuisance announced until Friday by the presi--there are no noises and no odors dent. for esthetic reasons, no one can be offended by it. It would be most unfair and unreasonable at this time virtually to take this business from Fine New Garage and New Municand upheld the ordinance. To hold otherwise, said the court, "would pre-

A somewhat similar question was owner of one of the city's largest ga passed upon in heinman vs. Little rages, has announced the contemplat-Rock, 237 U. S. 171, 59 L. Ed. 900, ed construction of a new garage 100 wherein an ordinance was construed by 100 fect on Oak street, between which prohibited livery stables in the First and Second. The new building business portion of Little Rock, Ark, two stories high and with a mezza-In upholding the ordinance the su-nine floor, will be leased to another

power of that state to regulate its company, recently organized here business, and to that end to declare that in particular circumstances and and display room of the new garage, in particular localities a livery stable shall be deemed a nuisance in fact and in law. . . And so long as be of white tile and the furniture of the resultation in quertless that the resultation in quertless that the resultation is quertless to the resultation in quertless that the resultation is quertless to the resultation in quertless that the resultation is quertless to the resultation in quertless that the resultation is quertless to the resultation in quertless that the resultation is quertless that the constructors. The sales and display room of the new garage. and in law. . . And so long as be of white tile and the furniture of the regulation in question is not white wicker. shown to be cle rly unreasonable and The city of Hood River is planning arbitrary, and operates uniformly to erect a new city hall and home for apon all persons similarly situated in the fire department on a lot adjoin-

OREGON MASONIC AND EASTERN STAR ORDERS PLAN MAGNIFICENT STATE HOME NEAR FOREST GROVE.



AIRPLANE VIEW, SHOWING PROPOSED DEVELOPMENT OF LODGE PROPERTY.

Our own subreme court in the case of Stettler vs. O'Hara, 69 Or. 519, said ess of law, or a denial of the equal protection of the laws." Boston Case Recalled.

In Welch vs. Swasey, 214 U. S. 91 53 L. Ed. 923, the supreme court of the United States upheld as constitutional an ordinance of the city of Box ton dividing the city into two districts. In district A the height of buildings was limited to 125 feet and

Members of Oregon's Vain district B to 80 feet. The supreme court held the ordinance to be valid. In Gaston vs. Thompson, 89 Or 412, our own supreme court held that every property owner holds his prop-erty subject at all times to the right of the state to regulate and control his use of it "in compilance with rea-sonable rules designed for the safety and convenience of the public."

REALTY BOARD IS GROWING

APPLICATIONS FOR MEMBER-SHIP READ AT MEETING.

inesses from the residential district. result of the campaign. Those de-Among the businesses thus prohibited siring to join the board, either as operate his brickyard ond floor of the Henry building, it is

The following list of applicants for membership was read Friday Active members-Neuhausen & Co McClure & Schmauch company, R. R. The question finally reached the federal supreme court, which upheld the ordinance as valid, holding in effect that the police power is not restricted to the suppression of nuisricted to the suppression of nuis-nees but extends to the regulation thusiness and the use of property. of business and the use of property, and that when a region surrounding pany, George L. Hurd and L. J. Lamb.

of neighboring dwellings are seriously inconvenienced, a prohibition of the announced by President Fred W. Gerbusiness in that district would be lows: City planning committee-J.SO. El-

> Committee to ald in sale of seaso comedy company, but not officially

HOOD BUILDING PROJECTED

ipal Structure to Adjoin. HOOD RIVER, Or., Jan. 17 .- (Speclude development and fix a city for-ever in its primitive conditions. There must be progress and if in its march land to Hood River, continue to stimprivate interests are in the way they must yield to the good of the community."

ulate the city to the greatest building activity noted in ten years. Harry T. DeWitt, a pioneer automobile man,

ourt said: • motor car concern.
clearly within the police The Baldwin-Swope Construction

e particular district, the district it- ing the location of the new garage, if not appearing to have been arbi- and the dividing wall probably will trarily selected, it cannot be judi- be constructed as a party wall.

clously declared that there is a deprivation of property without due process of law, or a denial of the equal

STATE MASONIC LODGES TO HAVE ELABORATE RETREAT.

Members of Oregon's Various Lodges.

The Oregon lodges of Masons and distant date, possess a state home for slope aged members second to none in the in this particular a large discretion is necessarily vested in the legislation to determine not only what the public interest requires, but what measures are necessary for the protection of such interest."

Large Authority Conceded.

In Eubank vs. Richmond, 226 U. S. 137, 57 L. Ed. 156, the supreme court further held that "the police power of the state extends not only to regulations which promote the public convenience of time state extends and safety, but to those which promote the public convenience or the general prosperity."

Ender the police power the courts have sustained laws regulating rail
There are many other decisions of space to the forwant of space to the courts, but for want of space to the courts, but for want of space to the state courts, but for want of space to the state courts, but for want of space to determine not only what the public in the legislation to determine not only what the public in the legislation to determine of time public."

There are many other decisions of state courts, but for want of space to the sext of space to the sext out for want of space to the feat to the committee in charge by W. C. Knighton, the architect, at a session Friday evening. The home will be focated upon a plot of 28 and erest near Forest Grove, purchased by the lodges last June, and upon the main Portland-Forest Grove high-way, and within easy access to the Southern Pacific electric at Edys the lodges last June, and upon the main Portland-Forest Grove high-way, and within easy access to the Southern Pacific electric at Edys the lodges last June, and upon the main Portland-Forest Grove high-way, and within easy access to the Southern Pacific electric at Edys the lodges last June, and upon the main Portland-Forest Grove high-way, and within easy access to the Southern entire country, acording to plans sub-

In the center of the drawing is hown the administration building, shown the administration building of the community. Portland also they care available and as there is need, this main structure are wings, stx in amber, which will be built as funds are available and as there is need. These will be connected with the main building by corridors. A vegetable agreement of the property, with a stable and garage at the upper left. These buildings will be built later as need develops. At the upper light is not plant, and at the upper light is not plant agreed the upper light is not plant asset. Around all four sides of the property will be planted English wallow and taken advantage of as a natural asset. Around all four sides of the property, with a stable and garage at the upper light is not plant at the extreme rear of the property, with a stable and garage at the upper light is not plant at the extreme rear of the property, with a stable and garage at the upper light is not plant at the extreme rear of the property, with as funded in the funded until November 21.

The control with the which promote the public convenience or the general prosperity."

Under the police power the courts have sustained laws regulating railways and various businesses, providing for the public supervision of hawdy houses, regulating and prohibiting the liquor traffic, requiring discased cattle to be slaughtered, regulating the construction of buildings, urghibiting child labor and regulating

BY O. H. SKOTHEIM.

(Chairman of the Portland Realty Board committee in charge of "Own Your Home" day, Tuesday, January 20.)

cities where industrial conditions have been stabilized — cities sur-rounded by highly developed agricultural sections.

Portland being one of the oldest communities in the far west, with a distory dating back nearly a hundred years, and with one of the oldest agricultural sections west of the Mis-sissippi river, has for years attracted. to itself an element of population from the surrounding prosperous farm areas, especially the Willamette valley, in addition to the thousands of people who have come from the east-ern or middle western states to spend Eastern Star will, at some not far the rest of their lives on the Pacific the amount of construction for which

What are the reasons for the present high percentage of home ownership in Portland? First of all the chief reason should be sought in the character of the population itself, also

of home ownership will also be given expression on other days of the as it is planned to have members of Committee in charge of "Own Your the realty board committee give brief Home" day, Tuesday, January 20.)

Why is Portland reported to have civic club luncheons throughout the

UNITED ARTISANS' HOME WILL RISE IN PORTLAND THIS SPRING.

708 PER CENT GAIN RECORDED IN MONTH OF NOVEMBER.

But Eight Cities in Entire United States Show Decrease in Construction Activity.

A gain of 708 per cent is shown in permits were granted during November, 1919, compared with November 1918, according to reports received by

to Commissioners

LEWISTON, Idaho, Jan. 17 .- (Spe-LEWISTON, Idaho, Jan. 17.—(Special.)—The county commissioners of Asotin county, Washington, are using four army trucks for which they paid the transportation charges from the transportation

hopes to find it necessary to make frequent addition to these districts in every part of the city.

one the public welfare, the public welfare, the public welfare, the provenience or general provided or general provenience or general pro

ture of the weather, but the idea with be brought before the people through a series of talks. President H. B. CHARACTER OF RESIDENTS AS- SURES MANY HOMES.

SURES MANY HOMES.

SURES MANY HOMES.

Steady Growth Attracts Class of People Who Wish to Own Residences.

Residences.

Steady Growth Attracts Class of the Wather, but the idea with the brought before the people through the brought before the people through a series of talks. President H. B. CHARACTER OF RESIDENTS AS- talks. President H. B. CHARACTER OF talks the factor, accepting a team to vision the city 3000 lots in use by hotels, apartments and flats. In the new ordinance 16,000 of talks. In the city 3000 lots in use by hotels, apartments and flats. In the new ordinance 16,000 of talks. In the city 3000 lots in use by hotels, apartments and flats. In the new ordinance 16,000 of talks. In the new ordinance 16,000 of talks. In the new ordinance 16,000 of talks. In

will get his permit immediately from the building inspector and will meet with no delays and no opposition.

Business Houses Needed. Second-The greater part of the rea of any city must be used for esidence purposes. Little clusters of

The city is dotted over with small stores and shops which have been started in unsultable places or barely managing to exist, to the neighbor-hood loss of both proprietor and com-munity. Around each of these stray buildings residence values are reduce while no business value is created. manufacturing plants, and to famil-They multiply greatly the damaged is rize the Fortland business men with area already described and increase the home concerns the time during which every part of t must remain adversely affected. Under the proposed regulations new

dence values will be maintained until the time when the property is needed

ZONING ORDINANCE

BENEFITS ARE SEEN

NEWELL PREDICTS RISE

President of City Planning Com-

mission Says Amendment as

Needed Will Be Easy.

resident of the City Planning Commissio

While many misstatements have

een circulated concerning the pro-

ance with the best interests of the

mmunity

New Powers Not Given. Third-The city council can confer new powers on itself. In the pasage of a zoning ordinance the counil merely announces its intention to exercise by a regular and orderly pro cedure powers which it has always ossessed and frequently partly ex

Removal of Restrictions Held

Big Advantage.

Bossessed and frequently partly erclised, though usually not until experience of evil results has shown, in each case, the necessity for protection. There are some 30-odd uses of tion. There are some 30-odd uses of property which have for some time been forbidden except by special permit of the council. This list has been added to, one by one, to meet the emergencies which have grown up through a long period of years.

In each case in the past a group of property owners, damaged by the intrusion in their vicinity of an objectionable business, have sought redress and found none. The council, after hearing their complaints, has taken warning and passed a special

taken warning and passed a special ordinance to prevent a recurrence of the particular trouble. This zoning by special ordinance is unsatisfactory because of the difficulty of giving proper consideration to all the inter-ests involved, and because of uncertainty as to when and how actio will be taken. It is now proposed to use foresight instead of hindsight, to provide protection before the harm posed zone ordinance, it is impossible

for any fair investigator to overlook the following facts:

1. This ordinance removes many more restrictions than it creates.

2. It will increase the values of for a number of years to come, it un-2. It will increase the values of oth business and residence property. doubtedly will be found in some cases 3. It does not confer any new powers upon the council or planning com-mission.

4. It can be quickly and easily amended when and where the growth amended when and where the growth of the city requires it.

First—The proposed zoning ordinance divides the entire city into numerous districts or zones in each of which property may be put to certain prescribed uses without the trouble of a special permit and without any restriction. Under the present law anyone desiring to use his property for a public garage, dry dieaning establishment, amusement park, dance hall, skating rink or wood or fuel yard must apply for a special permit and the adjacent property the report by the planning commis-

owners must all be notified. A hearing is held and if there is no objection, the permit is granted within a reasonable time, but if there is opposition the council decides in accordance with the best interests of the area of the city. Favorable action sion, 180 petitions for changes in proposed district boundaries have been or one-fifth of 1 per cent of the total area of the city. Favorable action has been recommended by the commission to the council on most of these petitions, and they will no doubt the programme, which, according to Mr. Taylor, will be instructive and broadly constructive along lines calculated to preserve realty from freak legislation.

HOME SALES EXPECTED

AFTER BUSINESS.

S. L. Savidge Assumes Duties of Sales Manager and Has Great Faith in Future.

Zoning ordinance is within the police power, the first consideration is, Does the ordinance cover a subject reasonably connected with the public eafety, health or morals? Would the passage of such an ordinance tend to promote the public convenience or general prospective?

Supreme Court Ruling Cited.

Supreme Court Ruling Cited.

**Supreme Court Ruling Cite As an opening volley in the 1920

Extensions can be made in addition as the adjoining owners desire them.

The proposed districts and bounties are the started backward," said Mr. coming spring and summer by Frank then started backward, and balls are the started backward, and balls are the started backward, and balls are the started backward. Savidge yesterday, "Portland being Thompson on the site of his present naturally located on the gateway of a bome adjacent to the Fifth-street vast rich inland empire is bound to park. The contract for the construc-

Plant Wednesday.

Visits to home industries of Port-

residence purposes. Little clusters of business houses are needed at short according to the announcement of Coe according to the announcement of Coe A. McKenna, chairman of the newly business but they can be no possibility of the Portland realty board. NEW STORE IS PLANNED according to the announcement of Coe A. McKenna, chairman of the newly organized industrial development comneeds, but they can by no possibility mittee of the associated civic clubs, use more than a small portion of the The Doernbecher furniture factory total residential area. Around every existing business center or district there is a neutral territory which, on account of the intrusion of busion account of the intrusion of busions are accounted by the members of the civic clubs and business accounts and the company of the civic clubs and the civic clubs are considered and the civic clubs are civic clubs and the civic clubs are civic clubs and the civic clubs are civic clubs and the c on account of the intrusion of dust ness, has become less desirable for residence property and where rents trip, meeting at 2 o'clock at the Henry have fallen in consequence. In course building. The Doernbecher company ing. The structure will be erected by the properties also will be will have an open house at that time and will recover and will welcome visitors, it is an property, and its cost will be in the

reduce the amount of land in this
reduce the amount of land in this
transition state, or shorten the period
during which it remains there, will be
of general benefit.

The city is dotted over with small
The city is dotted over with small to be postponed owners to be postponed cold weather at that time. The home industries visits were then postponed until after the holidays, and the trip Wednesday marks the resumption of the trips. Henceforth frequent excurtable trips. Henceforth frequent excurtable trips. Henceforth is planned that the planned

Ashland Realty Deals Reported.

MORE PROSPERITY FOR WEST ASSURED

Large Lumber Movements Held Certainty in Spring.

EAST KNOWS PORTLAND

F. E. Taylor, Back From Chicago, Says Eastern Capital to Be Heavily Invested Here.

limber and heavy investments of eastern capital in the Pacific northwest can be classed as certainties for the coming spring, and continued prosperity of the North Pacific states can be considered as practically insured, according to F. E. Taylor of the F E. Taylor company, who returned Thursday evening from the executive committee meeting of the National Real Estate boards held at Chicago, January 9 and 10. Mr. Taylor is a member of the committee and represented Portland realtors. While in the middle west he conferred with industrial and business leaders relative to western properties, and was assured that they are planning heavy investment in this region soon, he declared, particularly in Industrial properties and in land and timber tracts which can be improved quickly

Ninety Delegates Lay Plans. Ninety delegates, representing realexecutive committee meeting and formulated plans for the national convention of the association to be held in Kansas City, Mo., June 2, 3, 4 and 5. In addition the commit-

ship in Portland? First of all the cheracter of the population itself, also in the fact that Portland has never been a "boom" city, but a community of steady, substantial, continuous growth.

The character of the early inhablation of the city is reflected in the educational, religious and civic institutions of the community. Portland the period last year, not having been tutions of the community. Portland the period last year, not having been the restrictions were still in force during the first of all the character of the early inhablation of the city is reflected in the educational, religious and civic institutions of the community. Portland the period last year, not having been in the city today 800 to the above and other business uses to the above and other business uses of class V. which is the "general business" classification of the proposed zone ordinance. To take care of the community. Portland this period last year, not having been lifted until November 21.

The total number of permits grant-lifts wonderful water supply; its splentits wonderful water supply; its splenti "The Pacific northwest can look

"There is arising a tremen turning with friendly eyes toward the commission to expand these districts as fast as necessary to keep up with growth, in order to prevent any posgetting thoroughly alive to our re-sources and considers Portland as the nost substantial community in the

north Pacific territory. "Lumber, of course, is the biggest theme among the eastern leaders. met a number of men, national lead-ers in their lines, who declared that the nation's acute shortage of buildngs cannot mean otherwise than a

LEWISTON PLANS APARTMENT

Structure Expected to Be Started During Coming Spring.

LEWISTON, Idaho, Jan. 17 .- (Spe Every Portlander knows and others should know. William H. Hanby, a writer in the Sunset Magazine, makes the following officers the unqualified statement that more people to the population own their homes in Portland, Or., than in any other city, 46 per cent being the result of his investigations.

In the character of the construction charges from the barracks at Vancouver.

The trucks came as a surprise to the commissioner commission and the council. Thus they represent the unqualified statement that more people to the population own their of the population own their of the South Bend Commercial club is the one-ton-gipe, while the fourth is a huge four-ton truck. They are now of his investigations.

It has also been definitely ascer
The trucks came as a surprise to the barracks at Vancouver.

The trucks came as a surprise to the commissioner center. The way people are buying and the council. Thus they represent the building has been award-center. The way people are buying and the council. Thus they represent the building has been award-center. The way people are buying the barracks at Vancouver.

The trucks came as a surprise to the commission of the building has been award-center. The way people are buying and the council. Thus they represent the contribution by the planning commission and the council. Thus they represent the contribution by the planning commission and the council. Thus they represent the trucks are of the contribution of the building has been award-center. The way people are buying the bearing of the council and the plans for meant and further amended on individual permits to the contribution of the building has been award-center. The trucks are buying the beating of the council and business center. The trucks are buying the council. Thus they represent the trucks are of the council the trucks are permits to the council. Thus they represent the trucks are of the council the trucks are under the council and further amended on individual permits the trucks are under the council and further am Businessmen to Visit Doernbecher court as well. The construction will be of English half-timbered design and will have two floors. The Thompson residence v land by business men and members of the various clubs will be resumed west of the present location.

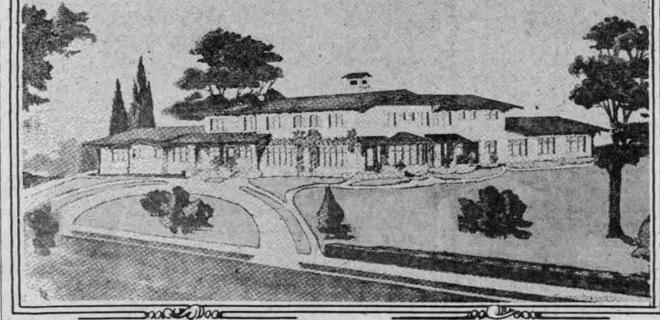
Wednesday afternoon under the lead-

pany to Build at Sixth and Everett. Construction of a new tw store building at the corner of Ever Perguson company, which has charge of arranging the leases for the build-

eighborhood of \$35,000. buildings now occupying the premises was begun last week, and actual con-struction will start shortly. The new building will be 100 by 100 feet. -The lease of the building at 281

E. L. Menefee to Build Here.

E. L. Mencice of the West Orecon Lumber company has purchased a building lot on Arlington Heights of



DRAWING OF STRUCTURE TO BE BUILT BY LODGE ON EAST SIDE.

At a cost of about \$30,000, the first wing of a home for the aged and infirm members of the United Artisan's which will be erected in Portiand this year and ready for occupancy by fall. The above drawing shows the wing joining and encircling a court. The home will be erected on the northeast corner of a plot of about four acres at 1.

The building will be recently and the state will be accemtated and infirm members of the United Artisan's much less and its recovery much which will be built at this time and additional wings of similar design will be put up as the years go by the wings joining and encircling a court. The home will be erected on the northeast corner of a plot of about four acres at 1 tably conducted, and property will be worth more because the users can afford to pay more for it; also resi
The building will be accemtated a building to on Arliaged a building to on Arliaged the ferty reasonably near to existing businesses. Growth, while equally rapid, will be orderly and the area of property unfavorably affected will be new to residence were sold to the city unfavorably affected will be much less and its recovery much of the city unfavorably affected will be new to conveniently and profit to J. D. Dura. Three city building merchandise and real estate transfers were closed in this city last week. Two cisidence there were closed in this city last week. Two cisidence there were leaved to a burd convenient to a property unfavorably affected will be new to residence were sold to a burd convenient to property unfavorably affected will be new to residence were sold to the near future, according to a new corner of a plot of about four acres at the convenient property will be kept where leaved to the new to residence there were conveniently and profit to building much less and its recovery much to recovery much to recovery much less and its recovery much to recovery