A CASE STUDY OF LAND USE PLANS AND REGULATIONS IN DOWNTOWN MEXICO CITY

by

Veronica Naranjo-Preciado

Submitted to the Department of Urban Studies and Planning in Partial Fulfillment of the Requirements for the Degree of

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ABSTRACT

The planning system in Mexico City has an abundant body of laws and institutions to manage the city in constant transformations. Changes in the city originate conflict. Conflict is solved with a constant dialectic between laws and negotiations-beyond-the-laws, given the interplay of the interests and the actors involved. This thesis looks at the case of la Condesa, a downtown neighborhood in Mexico City, where a land use conflict among neighbors and entrepreneurs’ interests reached an agreement in spite of ambiguous laws. Through interviews and the review of archival data and documents, I explored the conflict to find out the mechanisms by which actors reached the agreement. My conclusions are that given the inefficient legal system in Mexico, actors managed to find other mechanisms such as negotiation to solve spatial conflicts. In order to improve the planning system in Mexico, those mechanisms should be rethought to guarantee longer term solutions.

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I dedicate this thesis to Elsa, my mother, with love, respect and admiration.
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CHAPTER ONE

1. INTRODUCTION

1.1 PLANNING PROCESS IN MEXICO. LAND USE CONFLICTS

Mexico city has experienced rapid and concentrated urban growth that has led to a changed social, spatial and political landscape. The abundance of laws to regulate the transformations of the city have incorporated a similar number of institutions responsible to enforce or implement these laws. Looking at the specific case of land use plans and regulations in Mexico City, both have been tools to guide urban transformations since the 1930's. The city, however, has grown dramatically and plans, zoning guidelines and rules have been constantly overpassed.

Territorial conflicts which involved class based struggles have found different mechanisms to achieve their demands. Given a planning system with abundant number of regulations and deficient enforcement mechanisms, actors negotiate beyond the law in order to achieve agreements. Solutions are usually incorporated in official documents in order to avoid further conflicts. The result is a spiral between law-negotiation and law or a formal-informal-formal dialectic.
Nowhere is the complexity of this issue best illustrated as in a middle income neighborhood in downtown Mexico City. La Condesa, a middle to upper middle class neighborhood, declared residential in the 1986 Land Use Plan, is an example where the law became unable to control change. Given the interplay of actors and interests, negotiation became the mechanism to achieve agreements among the parties. What is interesting, however, is that even though laws are uniformly the same across the city, outcomes vary as a result of a complex interplay of the law and formal and informal negotiations between equally powerful actors: in this case small entrepreneurs and middle class residents. In order to understand land use processes in Mexico city, I take a closer look at La Condesa as a case study.

1.2 LAND USE CONFLICTS IN MEXICO

Middle class groups in Mexico City have been the most active groups concerned with land uses and zoning. One of the reasons is their interests to achieve a better living standard in their place of residence.

Since 1984, the government incorporated officially to the planning system the role of the civic associations with the intention that Mexico City inhabitants participated in the formulation of programs and plans directly with authorities. Civic associations have a legal status which helps residents to deal directly as a legal organization with the authority. Through these associations they have their own choice to participated as part of the political
and official citizens structures and to commit legal actions. Middle classes have been one of the most common sectors organizing themselves through this type of organization.

Through this type of mechanism residents of upper middle class neighborhoods have had a dialogue with authorities in an organized way about land use concerns. Two types of issues have become the most common middle class spatial struggles: the maintenance of public services and the management of conflicts generated as a result of changes in land use.

In the first case, neighbors have implemented their own services, given the inability of the government to provide those. Privatizing trash collection, maintenance of green areas, street cleaning, and particularly public safety, residents have taken responsibility and provided with their own means the way to get efficient services. In some cases, the privatization of the services has been seen as a political threat to the full control of the local government in the management of the city.

Middle class land use struggles have been mainly concerned with zoning and land use plans. For instance, Coyoacan, an area on the South of Mexico City has had a long tradition of residents’ associations looking after the new developments given the economic, cultural and

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1 For instance, a neighborhood in the outskirts of Mexico City with about 100 000 inhabitants demanded a better quality of the public services. They constituted themselves as a civic association and, finally, given a strong pressure, and inability to provide the demanded services, the municipality signed an agreement to give the responsibility to the association for the provision of services. At the same time, 70 % of the tax revenue from housing was given to the association. This created a new organ parallel to the municipal department in charge of managing the services and the budget. Eventually it became a municipality inside the municipality with the resulting duplicity of functions and power. Specially because most of the members of the association were militants of the opposition party. The contracts were not renewed.
tourist, yet residential value of the neighborhood. The typical conflict has been for many years the opening of fast food franchises in the historical center of the area such as ‘McDonalds’ and ‘Sanborn’s’. Through negotiation residents have managed to, at least, demand minimal guidelines to preserve the historical architecture, although more fast-food franchises have opened since then.

Another case of land use concerns in a residential area is in Polanco where the neighbors protested against the fast growth of retail and street markets in what used to be the most expensive and exclusive residential area of the city by the 1970’s. The land use has been mixed given the construction of two of the most expensive hotels in the city. However, the presence of small offices produced a market of small and cheap cocinas económicas (economic kitchens for office employees) that eventually was combined with small retail, decreasing the value as a residential area. Sidewalk cafes flourished but restauranteurs and delegado signed an agreement with minimal guidelines.

La Condesa, as Polanco and Coyoacan, has a civic association whose main concerns are the maintenance of the character of the neighborhood. However, in this case, the land use conflict involved the participation of equally powerful actors who tried to use different planning tools such as land use plans and zoning regulations. Given the deficiency of those tools, negotiation became the mechanism to frame their demands and achieve a solution.
1.3 Methodology

The present study is an exploratory approach to how planning works in Mexico City. My analysis is based in a single case, which might hinder the possibility to generalize from this study. Yet the spiral identified in this land use conflict is likely to be repeated in other areas where laws and land use plans are at stake.

Although I focus on La Condesa, the problems and solutions directly affected to the immediate adjacent neighbors of Hipodromo, Hipodromo Condesa and Roma Sur. The time frame for the analysis is from 1996 when the conflict emerged until January 1997 when the agreement was signed.

I did field work in the Summer of 1996 and Winter 1996. I attended the meetings held in July and August, where authorities from the Ministry of Housing and Urban development and residents and business owners were discussing the future land use plans for the *delegacion* Cuauhtemoc.

In December 1996 and January 1997 I conducted twenty semistructured face-to-face interviews with three different groups: Residents (those organized in the 6 residents associations and not organized but living in the area), business owners (those organized in the new restaurant association and those not organized but in the neighborhood) and other
users (those who did not live, study or work in the area but who actually spent time there and those who worked or study in the area but did not live there). I also talked to public officials at different levels. I added another group that I had not previously contemplated: the journalists. They happened to be open to share their views about the conflict in a personal and informal way, providing valuable information.

I used the snowball technique because of the time constraints and the lack of appropriated sample frames. My objective was to explore the different groups addressing three issues: how did they see the neighborhood, how and why did the conflict emerge, and what was their vision for the area.

The information comes from document and archival data, interviews, the local neighborhood’s newspapers, documents from the Legislative Assembly, the presidents of the residents’ associations and the restauranteurs archives.

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2 Defined as a nonprobability sampling procedure where cases are deliberately selected on the basis of certain variables and expanded by means of referrals or contacts established by early interviews. This sampling technique is useful when the population of interests is not likely to appear in adequate numbers in a representative sampling. In my case, subjects directly or indirectly affected by the conflict were identified in groups so I interviewed key contacts in each group and, from there, expanded to other informants. Most of the people I interviewed concentrated in the area where the main sidewalk cafes cluster was: the heart of La Condesa. But I also talked to people at the limits of the neighborhood, where they hardly noticed the conflict.
1.4 Thesis Structure

In the following chapter I will describe the process in which a land use conflict evolved in la Condesa. The first part gives some background about the case study, the transformations in the area and how the conflict evolved given the poor enforcement of laws and lack of clear regulations. I will describe the actors involved. I will focus in the largest and most active residents’ association group and on the directly affected and organized restauranteurs. Who were the residents? Who were the restauranteurs? What were the main issues around the land use discussions? I will describe the interests of each group and first attempts to negotiate.

In the second part I will focus on the bargain between the two parties involved in the conflict, and the interplay of each of them with the public officials representatives. The polarization of the conflict as the consequence of a violent law enforcement.

In the third part I describe the agreements and the negotiations given the interplay of interests and needs of the actors. We will observe that flexibility in plans and laws became ambiguous and authority’s discretionary decisions based on the law were political driven decisions. Moreover, this informal way to deal with a land use conflict is in fact the way the dialectic of the planning process is being played. The players had as a base the laws,
regulations and formalities in order to reach agreements, yet given different interests, actors negotiated beyond the formal and legal frame.

In this context, I will explain in more detail the relation of the formal and official terms versus the informal but recognizable mechanisms in the planning process to control change.

(fig 1)

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Fig. 1
CHAPTER TWO

2. "LA CONDESA" A CASE STUDY ABOUT SPATIAL CONFLICT

2.1 THE CASE STUDY

In this thesis I will focus on the specific case of a land use conflict at the local level. How did the conflict evolved? What type of tools were used to solve the conflict? How did they work? What were those mechanisms beyond the law that allowed to reach an agreement?

To look how the spiral of law-negotiation-law works, I will look at a case study of La Condesa, a neighborhood that is located in the south west corner of the Delegacion Cuauhtemoc, the most central and politically important delegacion in Mexico City.

Condesa’s residents, as in Coyoacan or Polanco, were concerned about specific issues related to the type of land use designated in the plans. However, in Condesa the specificity of the issues which originated the conflict and the dimension it took as a social conflict, given the interplay of actors and legal framework, make a particular case where the spiral law-negotiation law can be clearly studied.

Among the 34 colonias of the delegacion, La Condesa was designated as one of the five ‘residential’ high income colonias (neighborhoods). Despite its location, the neighborhood
Exhibit 1. Map of La Condesa and adjacent neighbors. Publicity brochure. November 1996. Published by CRESE.
has resisted the economic forces of downtown to become mostly commercial. Yet one of its
c characteristics is the mixture of commercial but also middle income single houses with Art
Deco and Californian architecture which makes it particularly singular and attractive. Its layout
includes boulevards and diagonal streets that hindered the fast traffic. It is surrounded by two
major corridors (Insurgentes and Avenida Chapultepec) and two major circuits (Viaducto and
Circuito Interior). Another factor that has hindered more commercial development (although it
has permanently increased) is the location of subway stations in the edges rather than in the
middle of the neighborhood. In spite of the ambiguous land use table, the constant
discretionary decisions and the negotiation that allowed other land uses but residential in the
area, La Condesa has survived as the most residential neighborhood in the delegacion
Cuauhtemoc. In my view, other factors such as housing ownership, community identity and
social attachment helped to maintain the residential character.

By 1993 a land use conflict evolved in the center of the neighborhood between residents and
small coffee shops entrepreneurs where residents defended the residential character of the area.
Although there was an absence of updated plans and ambiguous regulations, the enactment of
a new law, its reformulation and the incorporation of the citizens demands in the updated land
use plan allowed to reach an agreement.
2.1 BACKGROUND

The following section describes the historical background of La Condesa where I identify social and economic characteristics of the population that helped to the consolidation as a middle class neighborhood.

La Condesa\(^1\) was constituted as a *colonia* in 1902. By 1910 the Jockey Club opened a horse race track with a concession from the local government for 15 years lease and the future use of the 18 hectares field for a public park. By 1924 Jose G. De la Lama and Raul A. Basurto signed with the Jockey Club an agreement to urbanize the area and to buy the rights of the horse riding field (Hipodromo). The partnership managed to get from the Ayuntamiento (or local government) a permit to reduce the park area from 18 hectares to 8. The argument was that the profit made out of those gained hectares by selling them for residential land use, would be used to build infrastructure. In this way, de la Lama and Basurto developed a neighborhood in exceptional conditions, while the city was recovering from the revolutionary years. La Condesa, Hipodromo, and Hipodromo La Condesa soon became attractive and expensive neighborhoods because of the availability of services and infrastructure.

From 1935 to 1945 La Condesa and adjacent neighborhoods (Hipodromo, Hipodromo Condesa, and Roma) were totally consolidated with a population of 7000 inhabitants and a

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\(^1\) The name comes from the daughter of the family of Miravalle, who was known as La Condesa (the Countess) and inherited the Hacienda of Miravalle where the neighborhoods Roma, Roma Sur, Juarez, Hipodromo and Hipodromo were developed.
density of 150 meters inhabitants per square meters. The availability of all the services and the lot prices attracted that wealthy families and groups into the area. By the 1950's both, the Hipodromo and Condesa were still wealthy neighborhoods but not the most fashionable anymore. In these years, the policy of rent control was applied to some buildings resulting a decrease in the value of the area. Despite of all these changes, two factors preserved the neighborhood as mainly residential: home ownership, the consistent settlement of middle and high income population, and the ability to build new constructions through time.

Despite the proximity of La Condesa to downtown, by the 70's the tourist and cultural corridor of Zona Rosa on the North East side of the neighborhood stimulated that many young artist and independent actors to move to La Condesa which combined a residential but bohemian atmosphere. Eventually, the decline in la Zona Rosa and the 1985 earthquake affected La Condesa by reducing the value of properties and land, leading to the conversion of more houses into offices.

By 1990 a cultural corridor in the area Roma-Condesa was created to continue revitalizing the decline provoked by the earthquake. Bookstores cafes, cultural centers and street art were part of the new development. However, only the residents of colonia Roma were active participants

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2 It was chosen by the second and third generation of Jewish families established in Mexico since 1860 with prosperous business. They opened kosher bakeries, grocery stores and small restaurants as well as Jewish schools and temples. The park (former horse race track) became its main social gathering place. By 1922 Jewish immigrants must of them Ashkenazitas (Jewish coming from East and Central Europe), one of the first large migrations to Mexico, chose La Condesa and Hipodromo to settle down with their families.

3 Intellectuals and artist along the local government originated these corridor. The main features were the opening of big movie theaters, art galleries and cafes in old French style houses.

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of this project. In La Condesa and Hipodromo, residents associations were dealing with problems such as prostitution and the existence of new night clubs so the project of a cultural corridor in the area was not seen so enthusiastically. Yet as part of the new trend of cafes, small restaurants opened in the central area of La Condesa, where the small market and few retail and local neighborhood shops existed.

By 1993 la Condesa was classified in Delegacion Cuauhtemoc as a middle income neighborhood\(^4\). Most of the people were between 18 and 45 years old, which is consistent with the demographics of the overall Mexico City. After the earthquakes of 1985 many families moved out of La Condesa and adjacent neighborhoods because of the damages to the buildings. Some of the buildings were rehabilitated as offices, some as apartments and some others remained as single housing units. This meant an exodus of families replaced by singles or young couples. Another characteristic of the inhabitants of the area is the number of artists, intellectuals and “personalities” who moved in since the impact of la Zona Rosa or who have lived in the neighborhood since their families were established in the past decades. In this context, the emergence of sidewalk cafes succeeded because there was a young and intellectual population to be targeted.

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\(^4\) Middle income represents populations with wages between 10 to 29 times the minimum. According to the Marketing Map of Mexico City, only 12.05% of the population of Mexico City are classified in this level, which represents about 1,890,814 inhabitants. At the delegacion level, 20% of the total population of delegacion Cuauhtemoc are in this range, followed by 75% citizens with wages between 5 to 9 times the minimum and 5% of population with less than 5 times the minimum wage. Source: Buro de Investigaciones de Mercado, S.A. de C.V., 1993
2.3 THE NEIGHBORHOOD TRANSFORMATIONS

The land use conflict existed as a result of confrontation between neighbors and restauranteurs interests. Neighbors were used to the existence of commercial establishments including restaurants. However, the rapid success of the restaurants and the lack of control in terms of expansion and noise levels annoyed neighbors. Entrepreneurs went beyond the limits of their small retail space, expanding towards the sidewalk to make business.

The first innovative sidewalk restaurants to open in La Condesa were at the intersection of four primary streets where the small local market and a cluster of neighborhood every day life retail (i.e., dry cleaners, shoe repairs and wheel repairs predominated in this intersection) used to be. The new restaurants opened either in underutilized retail space or in former local grocery shops. The owner in many cases did not live in the same property where the business was located or he himself owned or rented the whole property. For instance, 'La Fonda Garufa' opened in a two story building ground floor. The entrepreneurs rented the first floor of the building and eventually the apartments above as well. Given their business success, they modified and extended towards the next establishment and adapted the apartments above as their private offices. Eventually the original partners split and decided to open another similar restaurant 'Café La Gloria' a block ahead but in the same intersection, in what used to be a grocery store.
The crepe restaurant also opened in an underutilized retail space of small size but high rent given its location at a corner of the same central intersection. The ‘Creperie la Paix’ was initiated by a young couple and their cousins in a partnership of capital, creativity and initiative. They designed the place with a jazzy and French nostalgic air including three tables and a counter, one restroom and a small kitchen, enough to prepare crepes. When they saw the success of the other restaurant with tables outside, given the wide space in their sidewalk they set up some tables as well. However, success did not happen immediately. According to one of the partners, it took them months to understand what made a restaurant successful. The tables on the sidewalk?, the waitresses? The menu? So they tried ‘sexier’ waitresses, tables outside and a new menu. Eventually, the atmosphere attracted more people. At some point they had twenty tables on the sidewalk and most of the time people waiting to be seated.

New restaurants with different concepts emerged: some developed with the intention to initiate a chain of restaurants, others with the intention to become an entertainment center and some more as part of consolidated chain cafes.

The character of the neighborhood had already a mix of land uses which included eating places. The new restaurants melded with the existent ones. In the same intersection where the commercial center of the neighborhood is, a restaurant called ‘Seps’ in the ground-floor of a building owned by the same restauranteurs has been established since 1970’s. It is a moderately expensive restaurant with 30 tables and a few two persons-tables on the sidewalk, within their floor area. They have their own parking lot and their own police. Yet it has never been as
successful as the new cafes. The other eating establishments area is a few blocks away, a
cluster of well known ‘Tacos’ chain restaurants opened since the eighties located in the grown
floor of condominiums and apartment buildings. Its busiest time is at night; however there is no
music or valet parking. Another type of restaurants are the small ‘economic kitchens’ (cocinas
economicas) which combined cheap and home made menus for workers and office employees,
specially at lunch time.

Overall, all these eating places have existed for more than 5 to 10 years giving evidence that
the neighborhood land use was already mixed and La Condesa was known for its Tacos cluster
in the streets of Campeche and in Alfonso Reyes, both located in boulevards. The rest of the
primary roads continued having an homogenous housing land use.

The succesful idea of sidewalk tables was imitated by the older restaurants. The tacos and the
economic kitchens also put their tables on the sidewalk. A difference between the new ones
and the old ones was that investment on the outside image was a main concern in the new type
of development. The newer restaurants renovated facades, used new furniture and fixed the
sidewalks, improving the public area as part of their own interest. The Tacos and economic
kitchen mainly put plastic and cheap but convenient tables outside. However, at some point,
restauranters, especially those with a more commercial than cultural concept, appropriated
the sidewalk and privatized all the space. Tables, awnings and ornaments entirely occupied the
sidewalk provoking an intimidating and bothersome experience for pedestrians.
Exhibit 2. Map of the la Condesa central area. Restaurants members of the Asociacion de Restauranteros y Comerciantes del Corazon de la Condesa. A.C.
The first complaints about the cafes came from the next door neighbors, young families who moved to the area and bought condominiums. For instance, one of the residents who eventually became one of the most active leaders in the conflict lives next to three of the most successful cafes. According to her testimony, in the resident’s association newsletter one of the reasons she bought her condominium was because the neighborhood included small retail, unique architecture, convenient location and green areas. When the cafes opened, her family celebrated the new type of atmosphere created by the establishments. But this only lasted until the number of cafes increased and the expansion of the establishments became a nuisance. For her, the value of her condominium was decreasing with the fast commercial yet chic, street environment. "If I decide to move, nobody will buy my condominium because it is above three restaurants. In any case nobody will pay what I did for such a location".

Neighbors started to complain on a one to one basis about parking, trash or noise, especially neighbors who lived next to the restaurants who either owned a property or pay high rents. Some of the restauranteurs, aware of the importance to be in good terms with neighbors, negotiated and accepted complaints, but others had confrontation with neighbors badly handled converting an ally into an enemy. For instance, after ‘La Garufa’, ‘The Creperie’ and the ‘Café la Gloria’ opened, at the same intersection, a restaurant with more piano bar atmosphere and higher prices opened. It was a failure and the owners shut down. The new renters opened the restaurant ‘Mama’s Rosas’, with a more international cuisine, live music and targeted to a younger urban professional clientele. They became very successful but rapidly made two

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5 Housewife, 40 years old.
enemies: the neighbor upstairs and the restauranteur down the road ‘La Casa de los Arroces’, the first of a new chain of restaurants, an aggressive entrepreneur opening more restaurants around the city, who became the president representative of their block where both ‘Mama Rosas’ and his restaurant were. The neighbors above ‘Mama Rosas’ (a building with at least 20 apartments) complained about the music. Both neighbors and the aggressive competitor threatened the partners of ‘Mama Rosas’ with the argument that they should not play live music because ‘la Condesa was a residential neighborhood’. But the manager did not modify anything and eventually employees became even more arrogant. When the residents got more organized the first restaurant to be targeted and accused of violating zoning regulations was ‘Mama Rosas’.

When the new restaurants were opening, one of the most active associations ‘La Asociacion de Amigos Parques Mexico y Espana’ was in a consolidation process. The association was founded in 1992 with 70 residents some of whom participated in the 1977 movements to stop the layout of fast speed avenues across the neighborhood and in 1986 when the headquarters of the Procuraduria tried to move to a 15 stories building in La Condesa. One of the main objectives as a group, according to their statement, was to fight against the corruption of illegal land use permits, to avoid prostitution, night clubs, the construction of an underground parking lot, the control of street merchants in the park, to protect buildings with historical value and to increase safety in the area. The association tried to work together with the

delegado\(^6\) achieving the formulation of various proposals about historic conservation, land use

\(^6\) Mexico City is ruled by the Department of the Federal District since 1930. Its main characteristic as an institution is the vertical structure which has as the origin, the President of the nation’s. The president elects
and safety. However, the agreements were never accomplished and most of the projects were undermined by bureaucratic procedures.

The members were residents of La Condesa and Hipodromo. Some of them owned and some others rented\(^7\). Ages range was between forties and sixties, but young professionals also attended regularly. Their political affiliation varied leaders for instance, were from the opposition parties, right (Partido Accion Nacional) or left (former Partido Popular Socialista). Among the members, leaders and presidents of the associations were many well known writers, artist and intelectuals\(^8\).

By early 1996, the Departamento del Distrito Federal called for elections at the block (‘presidentes de manzana’) colonia and district level and two of the leaders of these associations won the elections as a citizen advisors\(^9\). One of their first goals was to relocate the

\(^7\) According to census data from 1993, overall La Condesa had a 42% of rented occupied housing and a 49% of owned occupied housing. The data, nevertheless, does not specify if the remaining 9% is for commercial or services occupancy. Although there is not an exact number of renters and owners of the association must of them owned or have lived more than 15 years in the neighborhood.

\(^8\) Paco Ignacio Taibo, Cristina Pacheco, Juan Soriano, among others

\(^9\) So far, public participation structures have been represented by Consejos Consultivos, (Consultative Councils), juntas vecinales, and the encouragement of civic associations. In the nineties, the role of Consejeros Ciudadanos (Citizen Councils) in a new organism called Citizens Councils (not to confuse with Consultative Councils) became another alternative of citizen representation. Every area vecinal (neighborhood area) within a district (nor delegacion or neighborhood or census division) elected a representative called citizen council. Their main task was to approve Programas Delegacionales de Uso de Suelo (the land use delegational programs); supervise, evaluate delegational plans, public services, to receive complaints and reports of the neighbors and mediate with public officials; to argue about local mayors performance and demand information about their actions. They do not have participatory decision in the economics, political and public affairs of the
prostitutes and shut down the night clubs that emerged in the area. When the neighbors of La Condesa started to act as a group and to attend the meetings of ‘Los Amigos de los Parques’ to complain about sidewalk tables, the citizen advisor appropriated the issue of the restaurants as part of the agenda. In this context, the meetings organized regularly by the ‘Amigos los Parques’, became the meeting point of the upset neighbors directly affected by the sidewalk restaurants boom.

Restauranteurs, on the other hand, had to deal with the existent overwhelming number of rules. The most specific law referring to the use of the public space so far was the Regulation of Constructions for the Federal District enacted in 1993, chapter two. In this section, the law gives discretion to the Department to forbid or authorize any use of the sidewalk as long as the public interest is respected. In this context, the permit became the end itself rather than the mean to control transformations of the space.

By 1995, when most of the restaurants opened (about 40 in an area of 25 blocks), the delegado in turn authorized to the Department of Ecology within Delegacion Cuauhtemoc the expedition of permits for the sidewalk expansion. However, the conditions and specificities delegacion, although their value as elected representatives becomes a plus in relation to the local mayors who lack local representation. on March 1996, the elections (jefes de manzana) at the local level for block representatives had a participation of the 5%; according to data from the citizen councils, it was not higher than 2%. In the Colonia Hipodromo with 110 blocks (manzanas) only 19 representatives were elected as representatives. Given the low participation this elections were canceled. Apparently, the reasons of low participation were the lack of elections publicity (although at the neighborhood leaders politically involved knew about them), specially in those areas where the citizen councils did not belong to the PRI (as is the case of La Hipodromo) and the irregularities such as lack of paper work, or neighbors previously designated by the delegacion as block representatives.
about the number of tables, the type of ornaments or the conditions to get a permit and the fees was never clear in this context.

By February 1996 the delegado who authorized the permits was publicly accused of corruption and sent to jail.

This ambiguity made it possible for inspectors to charge an average of 170,000 pesos (about 20 dollars) a month for each new table on the sidewalk. In the delegacion, the local administrative institution, through the Department of Public Works, was giving licenses for 3,500 pesos (about 400 dollars), plus a monthly fee. Within a year the fee and the relation of inspectors and restauranteurs became the usual thing.

Being on good terms with the inspector meant to have an ally rather than an enemy. In any case, restauranteurs were dealing independently with the inspectors in a one to one basis according to the different issues every one had to arrange. For instance, the owner of the crepe’s place went to the delegacion to find out the requirements to put tables. An inspector came and checked the area, conditions, parking space and general concerns usually contemplated in the law. However, despite the existence of various regulations for the space, apparently there was not a legal procedure other than the land use certificate, that could officially recognize and allowed the use of chairs and tables or other street ornaments. The inspector did not want to sign any ‘permit’, but gave assurance that given the lack of explicit procedures to get permits, nobody could be forced to pay any fee for a permit. After this inspector’s visit, other inspectors
showed up with laws in hand to charge a fee for violation of either public space, lack of enough parking places or lack of one sanitary requirement. But the owners resisted and never gave any 'mordida'. Inspectors left them alone after some months.

Another example was the owner of one of the existent restaurants, who was continuously visited by an inspector for weeks, insisting that she could get a permit for 100,000 pesos (about 13 dollars) to put tables on the sidewalk. But she was not interested in the sidewalk and in fact she saw the restaurants with sidewalk tables as a disloyal competition for her business. ‘I do have to pay rent and taxes for my business whereas they pay little for the rent of a small site and nothing for the use of the sidewalk’.

At this point the competition and tension among the restauranteurs and also with neighbors was increasing. Overall, the conflict had as an origin the confrontation of interests between, broadly speaking, two groups: restauranteurs who successfully expanded to the sidewalk and neighbors directly affected by the consequences of this expansion. In this scenario, both parts used the law to define their arguments and negotiate their needs, yet the deficiencies in the law and the interplay of officials, inspectors, entrepreneurs, residents, and leaders forced them to negotiate beyond the law as we will observe in the following section.

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10 Owner of La Cucciola, restaurant founded in 1990
2.4 THE POLARIZATION OF THE PARTS. FRAMING THE ACTORS DEMANDS

The new delegado started his period on March 1996. His responsibility to deal with the Delegacion Cuauhtemoc, one of the most problematic and key areas in the electoral year was a challenge. The way to deal with such pressure was to impose firm hand on all the major conflicts of the area. Given the public accusation of corruption to the former delegado, he had to present a serious commitment to fight corruption and to bring order before the 1997 elections took place.

His work plan included the cancellation of permits for the ‘black land uses’ (i.e., night clubs, table dancers, bars) and the revision of all the permits given during the last 10 years in order to shut down all those establishments violating the laws. The new delegado also made the commitment to deal with safety issues, ambulantaje (street merchants), prostitution in residential areas (which at this stage was the main issue in La Condesa: to fight prostitution in the main corridor of the neighborhood given the residential character of the zone), corruption, among others. Yet proposals were rather vague, the only clear statement was to cancel revised permits and special agreements done in the former administration and bring back credibility to the local administration of Delegacion Cuauhtemoc.

In the meantime, despite the existence of regulations to control the use of public space for commercial establishments (i.e., The Regulation for Construction in the Federal District, the
land use plan), the enactment of the Law for Commercial Establishments in May 27, 1996 became the main instrument to regulate the use of public spaces for commercial purposes. The main reason was the obsolescence of the previous regulations to control the new transformations and apparently its main purpose was to regulate street merchants.

The law was formulated by the Commission of the Public Administration of the Federal District of the Legislative Assembly as part of the new legislative body for the Federal District. The head of the Commission of the Public Administration was responsible for the formulation of the law and also the representative of the PAN (Partido Accion Nacional, an opposition party).

As a way to find a legal base for their complaints, neighbors took the 1987 land use plan, as a tool to argue against the use of the sidewalk, noise, parking and smoke, but reducing the conflict to the argument of bringing back a residential character of the area. Being aware that the neighborhood was a rather mixed area, the residents argued that the area should recover its residential character in order to avoid the decline that other adjacent colonias such as Zona Rosa experienced after being a chic and cosmopolitan area.

The Law of Mercantile Establishments also became a tool to fight restauranteurs given the specific references made for establishments such as cafes using public spaces.
By July 1996, residents as a group integrated a commission to reach an agreement with those restauranteurs in the intersection where the cluster was established. The negotiation considered the following conditions:

- Free sidewalk access (without taking them off every night), allowing 1.50 meters for pedestrians to pass by.
- Pull awnings backwards
- No live music
- Stereo music allowed but below 60 decibels
- Street musicians should be allowed only until 10 p.m.
- Propose new parking lots or alternative parking space
- Deliver trash bags directly to the trucks
- The control of noise (including street musicians, live music indoors and stereo music outdoors). The proliferation of sidewalk cafes and busy streets attracted street merchants and street musicians, begging for money to all the customers and pedestrians in the area, increasing the noise level (sometimes three types of groups playing for the customers of the same restaurant).

Weeks later, the resident’s association organized a tour along the area to see if the restauranteurs were fulfilling the requirements of the agreement. They invited the delegado and officials from the delegacion to verify by themselves if ‘the law’ was being violated. However, the delegado was represented by the sub-delegada who rejected the attitude of the neighbors.
According to an interview conducted by a local newspaper, the official mentioned that even though residents have the right to complain about the illegal actions by restauranteurs, they have no right to apply the law as if they were the authority. In addition she criticized the neighbors for confronting with violating words and actions rather than through negotiation. Finally, she stated that the delegado did not have time to deal with annoyed neighbors and that the violations would be penalized according to the law and the inspectors in charge of verifying the changes. The next day the delegado showed up in the neighborhood with a more flexible attitude towards neighbors. He announced that all those restauranteurs violating the law would be penalized and those permits given already would be revised to verify they have a legal basis. They all agreed. Restaurantiers had until September 24, that is, 120 days after the law of Mercantile Establishments was enacted to get their permit, and if this was denied, to take out their street furniture. According to a journal note reporting this tour, only three restaurants had the 1.50 meter required margin for pedestrian access.

In this context, after the signed agreement, some of the restauranteurs made an effort to relocate the tables and allowed free access for pedestrians but most of them did not change anything. New restaurants were opening and the attitude of some of the restauranteurs became cynical. It was evident that after so much give and take of the officials at all levels of the delegacion or from the Department of the Federal District headquarters with restauranteurs, the latter felt somehow protected. By July 30 a group of inspectors and police cars showed up in the neighborhood. They asked for the permits and documents from the owner of ‘Mama Rosas’. Given the abundant regulations, despite the protection of politicians, restauranteurs
were always in the position of having a permit without actually fulfilling the requirements. Alcohol license was missing at ‘Mama Rosas’. The police shut down the establishment. This was just a sign for neighbors as well as restauranteurs that law could actually be enforced, however it was evident that in this case it was the result of an accusation where the inspectors were compromised to make the legal action. But it was an isolated case of law enforcement. Four weeks later the restaurant opened again.

The reopening of ‘Mama Rosas’ was a bad sign for the organized neighbors because it showed restauranteurs were in fact well protected by politicians or top level officials. The general feeling was that all the meetings, discussions and talks with delegacion public officials and subdelegados were vain and that negotiations or talks with a fragmented group of restauranteurs was useless.

The leadership of the restauranteurs was rather spontaneous and no attempts were made to organize as an association so far. After the confrontation of ‘Mama Rosas’ and the owner of ‘La Casa de los Arroces’, the other restauranteurs dealing with their own problems ignored the leadership of the Arroces’ owner and took the conflict as a competition issue among the two owners. The constant pressure of residents and the more frequent presence of the delegado and officials in the area, forced them to gather and organize commitees to present themeselves as the restauranteurs. Eventually one of the new entrepreneurs renovated a building and occupied the ground floor to establish his own restaurant. He planned to open the business by September. However, in this month inspectors, delegacion and residents were more aware
than ever of every new restaurant intending to open and put tables on the sidewalks in the neighborhood. He argued that he had a permit to use the sidewalk since May but given the economic crisis he could not finish the construction until September. In the process of dealing with bureaucracy, inspectors and neighbors he managed to get to know almost all the key actors at every stage. The name of his local was “El Principio” (The beginning). He became until the signed agreement the most active leader of the restauranteurs.

By August 1996, the planners of Secretaria de Desarrollo Urbano y Vivienda (SEDUVI), called for a public forum to discuss the proposal for the new land use plan of Delegacion Cuauhtemoc. The participants were mostly the same active neighbors participating in the meetings of the Residents Associations. But also well known architects and planners concerned with the future of La Condesa and Hipodromo area attended to discuss the proposals. Few restauranteurs (The owners of la Garufa and Gloria) attended. The proposed plan colored La Condesa, Hipodromo and Hipodromo Condesa as a predominantly residential area. The residents opposed the plan with the argument that it lacked a serious strategy or methodology to address the real needs of the area such as the balance of residential with the commercial development. Residents also disagreed about the process and disapproved the plans presented by the public officials because they were supposed to study, analyze and propose the plan in 9 days, when the formulation of those plans officially took 8 months.

Residents decided to formulate their own proposals, so that they would ensure the residential character of the area as well as its historical patrimony. Among their objectives, were the
incorporation of a new nomenclature, the administrative mechanisms to ensure citizens’
participation for decisions and permits about land use and the maintenance of the
neighborhood as predominantly residential. In sum, the new plan was meant to include the land
uses and the regulations to reestablish the predominantly residential land use, through a
thorough survey of each parcel. But, in the meantime, there were no changes in the everyday
operation of the restaurants.

Although the actors based their demands on the existent laws, the abundance yet weak
enforcement of regulations pushed actors to agree among themselves. However, in the absence
of mechanisms to ensure the accomplishment of the agreement, and the evident success of the
restaurants, the residents had a more radicalized position. The following section will show the
intervention of the authorities to respond to neighbors’ demands by enforcing the law, this time
rigidly, as a way to solve the apparent violation of laws.

2.5 The ‘Operativo’

The Law enacted in May, had ambiguous parts. However, the local mayor used it as a legal
base to do an ‘operativo’\(^\text{11}\). Apparently, on September 24 the number of days to regularize the
street use and the sidewalk was due. During the previous days the rumor of an operativo was
very strong in the neighborhood but there were no signs yet of what was to come. In the
morning of the 24th, restauranteurs knew the delegado was coming to the area again to verify

\(^{11}\) Defined as a drastic action usually using police or heavy force in a short time (hours) in order to apply the
law.
the permits were in place. The restauranteurs already constituted as an association had as a leader the owner of ‘El Principio’. He met with the general secretary of the Government of the Federal District (the second in command after the Mexico City’s Major) and assured that the operativo was not going to take place. Days later, the newspaper published a note where the general secretary had canceled the order of an operativo intended to do by the delegado but the delegado had disobeyed the order.

A crew of 10 trucks with 300 municipal workers tore down outdoor restaurants, blocking sidewalks in the five neighborhoods of the area. Another crew of inspectors checked the permits of every local with tables on the sidewalks. The inspectors went to every aspect of the business: fiscal documentation, social security for the workers, checking of every worker’s citizenship (many waitresses, according to the inspectors, look like ‘foreigners’), sanitary conditions, construction permits, adequate signage. The restaurant’s lawyers and the Human Rights Commission as observers tried to defend themselves with acquired permits and other legal documentation. However, those with permits were not respected with the argument that they did not follow the guidelines written in the permit. The investment in the street furniture, ornaments and image of the restaurants was lost. One of the restauranteurs complained: “I do not care what, according to you, I am violating, if you give me back the 350 thousand pesos I invested in my business, I will give the money to all the neighbors so that they see the good I make for the neighborhood”.
According to the delegado, in a press conference, the delegado justified the spectacular action as follows: ‘We implemented a dissuasive action. If we would have had sent fewer workers, the restauranteurs would have opposed physically and violently. We did not use military forces and the workers did not hit anyone. There were no confrontations. And we did not do anything spectacular, we sent 300 workers for 360 restaurants in Condesa and adjacent areas’.

Newspaper notes, and media in general, reported the operativo. A liberal newspaper condemn the act as an authoritarian action against citizens and an abuse of power from the delegado. Other more conservative newspapers stresses the legality of the act: ‘Finally the law is being enforced’.

Within three days, the delegado was called to make an appearance in front of the Legislative Assembly. He was accused for exceeding his powers as an authority.

The delegado justified his action with the following points:

1. In the case of La Condesa, the Law for the function of Commercial Establishments, authorized the temporary location of chairs, tables, or any other type of installation on the public space for commercial establishments such as restaurants, coffee shops and bars located in commercial, cultural or tourist zones. The authorization had to consider two conditions:

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12 Interview between Delegado and president of ARCCCO, October 1996, Residents Association of La Condesa newsletter.
- Permits could not be given for more than 180 days, although they had a possibility of renewal. Moreover, permits could create rights in the long run, but would continue to be conditional.

- The type of land use for restaurants, cafes, and bars, had to be clearly designated as either commercial, tourist or cultural. Therefore, businesses were prohibited from locating in a 'predominantly residential' area.

According to the date when the law was enacted, May 21, the 120 days were accomplished by September 24. Therefore, as read on the article 13, fraction VII: “For the public interest, fixtures and installations shall be removed when its location violates the law”, the delegado with the autonomy granted by the law, decided to apply the force and remove all the fixtures on the street in a period of 12 hours with police force and the presence of the Human Rights Commission.

2.6 THE REACTIONS AND IMMEDIATE EFFECTS

By September 1996, the Legislator, as a head of the Commission of Public Administration in the Legislative Assembly, publicly accused the delegado for applying the law violently. The delegado replied also publicly that he applied the law strictly in order to control the conflict of La Condesa. Yet the controversy was based in the different interpretations of the law because
of its inconsistent use of time frames to give permits and to give notifications before penalization.

Based on the Law of Mercantile Establishments the delegado referred to the three timing choices to control the land use conflict: According to the paragraph 17, he could have considered a ‘reasonable’ period for the negotiation of the space use before applying the law. The second choice was to enforce the law progressively by time periods, deciding by himself when to apply public force. Finally he followed the article 5 where the law specifies that commercial establishments should have 120 days from the date the law was enacted to either get a permit or remove all the furniture.

However, the time unit for permits, applications and enforcement designates inconsistently natural or working days and in other cases does not specify. For instance, in the fifth transitory article says ‘For the effects of the 12, 13, 14 articles, those mercantile establishments with installations and fixtures on the public area, will have a period of 120 days from the publication of this law to obtain the permit and to remove in any case the permanent fixtures and installations in the area. The delegado using his discretionary decision power, considered September 21 as the deadline (120 natural days) to remove their street furniture, whereas the restaurant owners and legislators argued that the law should had been enforced in 120 working days until November 12, 1996.
In this period, restauranteurs were formulating petitions to the *delegacion* in order to get a permit in terms of the new legislation. But the procedures of the law failed to clarify mechanisms to deny or to give permits. For instance, Article 20. ‘In case that there is no answer from the authority in the time period indicated it should be understood that the application has been approved in the terms of the Law for Administrative Procedures in the Federal District.’ That period can vary from five to seven days. Whereas in other cases if the authority did not answer by the period indicated in the law, that meant the permits were denied. For instance, Art.14. III....In the case that the period indicated there is no answer from the authorities, it should be understood that the permit has been denied for all the legal effects that would take place.’ This mechanisms had a legal terminology called *affirmativa ficta* in the first case or *negativa ficta* in the second.

The *delegado* mentioned that in any event permits were denied because the type of commercial establishments such as restaurants, coffee shops and bars, according to the Law of Mercantile Establishments, had to be located in a commercial, cultural or tourist zones, and La Condesa so far had a predominantly residential land. In fact, in any case cultural or tourist zones did not exist as land use zones in any land use plan.

Legislators claimed that the members of the restaurant’s association were not notified about the *operativo*. The legislator blamed the *delegado* for applying the law in a subjective fashion provoking confusion and uncertainty among citizens. Yet the Assembly made the commitment to clarify the wording of the law (Fauzi Hamdan, 1996).
So in spite of the Article 13, fraction VII which says permits will be denied in zones with predominantly residential and offices land use, all those restaurants established before May 1996 (when the law was enacted) were able to expand their business on the sidewalk.

The _operativo_ became the end of a process to get rid of the tables on the sidewalk; however, the conflict was not solved and total polarization of the parties predominated in the neighborhood. The residents association’s members had an heterogenic reaction. As organization they publicly congratulated the _delegado_ for enforcing the law and for responding to their demands. Some of the members, including the editor of the official resident’s newsletter disapproved the violent use of the public force and some of them totally disagreed to justify the use of violence. The editor published a note: “The _delegado_ kept a political game where everyone was in permanent confusion. He made restauranteurs feel that authorities would take care of their illegal privileges and to neighbors that authorities were taking notes of their demands. But the _delegado_, using the neighbors demands, exhibited his power to enforce the law passing the political cost of his action to the residents...his action was a sign of a lack of responsability to solve the problems legally and politically rather than violently. The consequence was that the actors involved were more polarized and fragmented and the social conflict is now worse than before. Everyone looses when violence is applied. Restauranteurs got organized to prepare an offensive and neighbors who wanted to recover sidewalks were afraid of passing in front of the restauranteurs’ hostile glances’.
Many of the ‘silent mass’, neighbors, customers and personalities spoke up against the authorities becoming sympathetic to the restauranteurs. Some of the intellectuals who used to eat in those restaurants and other personalities protest through notes in newspapers. The conflict became an issue at the city and political level.

Restauranteurs officially organized themselves in the ‘Asociacion de Restauranteros y Comerciantes del Corazon de la Condesa, A.C.’ (ARCCCO) and protest through the Human Rights Commission against such a violent action. In the meantime, with the losses in investments made on the street furniture and the losses of customers, they worked out strategies to survive their a business and to negotiate with the delegado initiating a new process.

They covered themselves blaming the ambiguity of the laws, the political interest of the delegado and the abuse of their citizen’s rights. The legal procedure they used was the ‘amparo’ which consists in a legal protection by which no penalization could be applied to them, given a valid justification (i.e., because of the violation of human rights or not enough evidence to be penalized). Their goal was to reincorporate the tables on the sidewalk. However not all the restauranteurs managed to survive the losses resulting from the operativo. About 30% shut down and 20% changed their business for boutiques instead of restaurants. The most active members became the owner of ‘El Principio’, as leader, the ‘Mama Rosas’, ‘La Garufa’, ‘La Gloria’, ‘La Creperie de la Paix’ and almost all the original restauranteurs who established since 1993.
The rigid enforcement of the law provoked a conflict rather than a solution to the fast transformations of the neighborhood. The reaction of legislators, restauranteurs and neighbors nevertheless, managed to set the law in order to reach a real solution for the specific problem of la Condesa. In the following section we will explore how the agreement will allow restaurants to put tables on the sidewalk but this time following specific rules.

2.7 THE AGREEMENT

The negotiation considered 16 basic rules divided in three types: those that the new Law of Mercantile Establishments mentioned about free access and removable items; those concerning different rules such as sanitary and safety regulations and those related to compensations such as 30% taxes on the profit made by the restaurants for improvements in the rest of the zone.

As part of the official way to consolidate the agreement legally and formally, by 1996 the Legislative Assembly of the Federal District, through the Commission of Public Administration, reformulated article number 12 about land use and the transitory article about timing. Its original version was: May 21, 1996, version 1,

‘The mercantile establishments such as restaurants, cafeterias and bars, located in commercial, cultural and tourist zones, will be able to use the public area, with a permit and payment previously obtained, established in the Financial Code for the Federal District, putting sunshades, tables or any other type of
fixtures or detachable installations by which the service will be given according to the opening declaration or its function license.”

In this case, the residents of La Condesa made clear that although in the adjacent neighbors have made proposals to convert some areas in cultural and tourist zones in La Condesa these projects had not been discussed or implemented. So in order to avoid any interpretation, the Assembly decided to omit the sentence: located in commercial, cultural and tourist zones.

The second version (October 16, 1996) after the operativo was written as follows:

“The mercantile establishments such as restaurants, cafeterias and bars will be able to use the public area, with a permit and payment previously obtained, established in the ‘Financial Code for the Federal District’, putting sunshades, tables or any other type of fixtures or detachable installations by which the service will be given according to the opening declaration or in its function license.”

Another necessary change according to the legislators was the elimination of the word ‘bars’ because if they were included in this article, bars would ended up on the sidewalk provoking nuisance to the neighbors\textsuperscript{13}. So the last version (October 30) for article 12 became as follows:

\textsuperscript{13} Another change was that not only payments but ‘contraprestaciones’ should be made before applying for a permission to put tables on the sidewalks, which according to the Law of Patrimony Regime and Public Service, should be made by the applicants.
The mercantile establishments such as restaurants, restaurant-bars and cafeterias, will be able to use the public area, with a permit and payment of the 'contraprestaciones' previously obtained, established in the Financial Code for the Federal District, putting sunshades, tables or any other type of fixtures or detachable installations by which the service will be given according to the opening declaration or in its function license.

Finally, the Legislative Assembly add the following transitory article:

'The restaurants, restaurant-bars and cafeterias operating before the law was enacted with opening declaration or function license, will not be affected by the article 13 fraction VII of this law.'

By January 1997 the representative of the residents' association of la Condesa, the President of the Human Rights Commission of the Federal District and the leader of the restauranteurs, signed in the delegado’s office the agreement in which the street furniture will be restablished in La Condesa.

Although the feeling among neighbors is that they lost, the citizen council in an interview expressed that everyone won and lost. 'Restauranteurs managed to stay but they lost their investments in street furniture. After the conflict business went down and December, usually
the peak season for business was very low as a consequence of the conflict. We had to assume that the neighborhood became fashionable and it was difficult to stop that trend from one day to the other. ‘Although we managed to control the use of the sidewalk, we still have to deal with those business that operate on the streets such as the rugs shop (the cut the rug on the sidewalk because their place is too small), or the mechanics who repair their cars on the street and use the sidewalk as their working place’

According to the 1996-2020 Plan of Urban Development for Delegacion Cuauhtemoc, La Condesa and adjacent neighborhoods (Hipodromo, Hipodromo Condesa, Roma Sur) were classified as residential. Yet the Program not only classified La Condesa as Residential (H) because of its predominance of housing over commercial and services or as a result of neighbors’ demands, but also as a patrimonial (defined as those areas with historical value, officially or informally recognized) and as a recycle potential area (defined as colonias which have all services and infrastructure but a high degree of deterioration). However, the objectives for each of these classifications overlap with each other. For instance, the objectives for the residential land use area to avoid all the uses except police offices, councils and embassies contradicts the objective for the recycle zones to encourage the economic development through small entrepreneurs and the creation of jobs.

\[\text{Former 'zona especial de desarrollo controlado' (special zone of controled development) the equivalent of a partial plan.}\]
In an effort to combine and to balance the objectives for the neighborhoods like La Condesa, the Program implemented Partial Plans a new version of a ZEDEC\textsuperscript{15} for La Condesa, Hipodromo, Hipodromo Condesa and Roma Sur and four more (Roma Norte, Alameda, Cuauhtemoc, Santa Maria la Redonda and The Historic Center). The goal was to classify land uses according to the current characteristics of the neighborhood and its potential. However, the 1996 Delegational Program only mentions general characteristics, technical justification and some general guidelines for its future formulation.

With this context, according to the Representative of the Commission of Urban Development of the Legislative Assembly of the Federal District, permits for any other commercial establishment in La Condesa and adjacent neighborhoods will be forbidden until the partial plans are made (in a 3 year time period).

In the meantime, according to the land use table for the delegacion in la Condesa (H) all the land uses are forbidden except administration, pre-primary schools and police offices. All commercial activities are forbidden, all services such as schools, entertaining facilities such as cinemas, community centers, sports centers, lodging, food and drink health centers are forbidden. It is expected that the specificity of the partial plan will maintain a balance of land uses and that public participation will be determinant as a lock to avoid new developments forbidden in the plans. However, the mechanisms for public participation to act as observers
and are not clearly stated. Yet the plan clearly establishes the intentions to maintain its predominantly residential land use. The residents celebrated the plan.

The planning process in Mexico City planning system is a spiral of law and negotiations. The overwhelming number of laws, their flexibility, ambiguity and weak enforcement pushes authorities and affected actors to negotiate in order to defend their interests and to achieve solutions. To validate the result of negotiations actors use formal channels such agreements and formal tools returning to the short term solution but solving conflicts.
CHAPTER THREE

3. CONCLUSIONS

Looking at a specific case of a middle-upper class in downtown Mexico, we observed the dialectic of laws and informal mechanisms that actors used to reach an agreement.

The conflict in la Condesa evolved as the result of a confrontation of interests. Residents in use of a peaceful and moderately quiet neighborhood opposed an increasing number of young entrepreneurs with creative ideas for their eating establishments. The overwhelming number of laws, their flexibility, ambiguity and weak enforcement became part of the struggles between residents, owners, small business, entrepreneurs and local government officials. Negotiation became the tool to reach an agreement.

After the failure of negotiations in a one-to-one basis about the nuisances such as smoke, noise and parking, both parts framed their demands through a regulatory tool. Neighbors used the 1986 Land Use Plan and the Law of Mercantile Establishments and restauranteurs used permits as an official document which certified their legality. However, the Land Use Plan was outdated and the Law of Mercantile Establishments was rather ambiguous. Permits were rather documents signed without legal verification.
Given the weak legal base, residents made linkages with the authority through the participation of the residents’ association in the elections. Two of their leaders ran for the elections of local citizen councils. In this way, residents managed to put more pressure on the delegado as the authority responsible for the law enforcement at local level, to respond to the demands of the citizen council and the residents.

Restauranteurs’ main concern was to get the permit, as an official document that sums up the legal requirements. However, given the abundant existence of laws, the permit did not certified the accomplishment of all legal requirements. In such vulnerable circumstances, restauranteurs dealt with inspectors, officials and political contacts, to protect themselves from any penalization. In addition, the success in their business was an incentive to continue developing without legal constraints. Leadership and the need to constitute themselves as a group was never needed. Restauranteurs felt authorities were taking care of their ambiguous legal situation and neighbors expected their official representation through citizen councils assured the response to their demands with the delegacion.

This balance did not last long. The political pressure for the delegado to respond to a more polarized social conflict pushed him to enforce the law rigidly in spite of the ambiguous and contradictory terms in its wording. The delegado focused on the law’s instructions to forbid sidewalk cafes, restaurants and bars given the predominant
residential character of the area. However, predominance of the residential in la Condesa was unreal given the numerous commercial establishments since the neighborhood was created. The confusion polarized both restauranteurs and neighbors. What emerged was a political “dance” where different actors played out their discretionary power.

Legislators reformulated, clarified and added new articles to the law, including the transitory article in which restaurants would be allowed to reestablished their business and tables following specific guidelines. Restauranteurs and residents signed an agreement officially certified where the minimal conditions of space (i.e., sanitary, environmental and spatial) were established. In addition, the authorities incorporated the predominantly residential classification for La Condesa in the 1996-2020 Partial Land Use Plan and the formulation of a partial or special program for La Condesa.

In sum, given the characteristics of the legal and regulatory system in the planning process for Mexico City, negotiation on a case-by-case-basis was the mechanism used to solve conflicts. In this way, local government manages to deal with social conflicts resulting from fast transformations of the city.
Exhibit 3. Sidewalk Table-café in Avenida Mexico, Colonia Hipodromo
This is a labor-intensive process between powerful actors and, as long as laws can be amended, no one's position is firmly grounded. This is both reassuring and disconcerting. On the one hand, things can be changed. On the other, regulations are always changing. The challenge for planning authorities becomes striking a balance between these two forces. So far, in La Condesa the struggle has been solved because all the actors had similar levels of influence of power (small entrepreneurs and middle class population). But one can not help but to wonder what would happen if this would not be the case. A future research question, then becomes: What mechanisms can bring guarantees to the actors involved in the conflict?

**RETHINKING MECHANISMS**

As part of the planning process, three mechanisms could be adapted to improve implementation of planning tools: flexibility, discretionary power, and the agreements. These exemplify the three levels of the planning process to respond in a conflict: the regulatory tool, its enforcement by an authority, and the solution level.

Although flexibility leaves room for discretionary and politically driven decisions, it represents a useful mechanism for planning because allows the institutions to catch up with the fast changing nature of the cities. Clear codes and rule books as well as laws
Exhibit 4. Californian style houses in La Condesa
La reconciliación

En una comida convocada, por restauranteros de la Condesa, el Delegado de Cuauhtémoc, Alejandro Carrillo Castro, se reunió con los dueños de los restaurantes La Garufa, El Principio, Mama Rosa y Buena Tierra.

Exhibit 6. The delegado having lunch on a sidewalk table in ‘La Fonda Garufa’ after the agreement was signed
Pacto en la Condesa

Vecinos de la colonia Condesa y Roma celebraron ayer en compañía del delegado en Cuauhtémoc, Alejandro Carrillo Castro, y del presidente de la Comisión de Derechos Humanos del Distrito Federal (CDHDF), Luis de la Barreda Solórzano, la firma del acuerdo que permitirá el establecimiento de enseres en esa zona.

Algunos de los puntos más importantes que deberán respetar los restauranteros de la colonia Roma y Condesa son:
- Dejar un corredor de paso de 1.50 metros de ancho
- Ajustarse a un horario adecuado de tal manera que no incomode ni cause disgustos a los habitantes de la zona y
- Al término del servicio, la vialidad deberá estar libre de cualquier objeto propio del establecimiento.

Los toldos que se instalen deberán presentar una estructura tubular ligera, desmontable y una altura de 2.45 metros con un frente máximo de 30 centímetros, y tener el control de los autos, para impedir el estacionamiento en doble y triple fila, el volumen de la música no deberá ser mayor de 65 decibeles y al exterior no se permitirá sonido a partir de las 22:00 horas, entre otros requisitos.

Durante la firma, De la Barreda Solórzano y

Alejandro Carrillo Castro, Luis de la Barreda, Vicente Villamar y Jaime Morales, celebraron el acuerdo firmado ayer

Carrillo Castro coincidió en señalar, en conferencia de prensa, que ese acuerdo responde a la disposición de las autoridades de la delegación Cuauhtémoc, vecinos de la zona Condesa y Roma y restauranteros, para resolver los problemas de la comunidad.

Con esto, la CDHDF concluye con un acuerdo de no responsabilidad, presentada por los restauranteros de las colonias Condesa y Roma, la cual se presentó el pasado 25 de septiembre de 1996.

El ombudsman capitalino concluyó que el operativo que realizó el delegado en Cuauhtémoc se efectuó con estricto cumplimiento de la Ley para el Funcionamiento de Establecimientos Mercantiles para el Distrito Federal.

Como se recordará durante dicho operativo varios toldos e incluso techos bien construidos fueron derribados por trabajadores de la delegación.

Este convenio lo firmaron los consejeros ciudadanos Vicente Villamar, Marisa Fernández, el presidente de la Asociación de Residentes de la colonia Hipódromo Condesa, Hugo González Gutiérrez, Raquel Nava Uribe, de la asociación de Amigos de Los Parques de México y España.

Así como Jaime Beltrán, presidente de la asociación de Restauranteros y Comerciantes del Corazón de la Condesa, y Alejandra Vélez Aguilar, segunda visitadora de la CDHDF.
are needed to control change but since cities are messy and complex these tools should leave room for messiness and complexity. Flexibility, however, can bring a negative effect in the long run, especially when the rules and planning policies are unclear. What type of mechanisms could be used to avoid ambiguity but yet give flexibility to the laws?

In the case of la Condesa, the regulatory tools were rather ambiguous or out dated but given the discretion and flexibility, the delegado could use these tools to control the conflict. Discretionary decisions occur because there is room for judgment or because the regulations allow for some degree of policy discretion and yet there is a factual base without being legally incorrect. The opposite, a non discretionary decision, occurs when a permit is received or denied based on objectively measurable or precise standards. (Westling and Mattis, 1981)

In la Condesa, the delegado’s decision was a rather rigid enforcement of the law. This had unintended inflammatory consequences. Legislators demanded a justification for violent enforcement but also modified the wording, apparently in a way that the conflict in la Condesa would reach an agreement. Yet legislators left room again for flexible enforcement and discretionary powers.

The impact of discretionary decisions as we saw in La Condesa brought different benefits for the population. In La Condesa, once the agreement was reached, business owners
and residents benefited in the short run. Restauranteurs continued operating their business but losing some of their earlier investments and having additional costs following the guidelines of the new agreement. Many entrepreneurs did not survive the conflict. On the other hand, the predominantly residential land use designated in the new plans was also positive for restaurant’s owners since part of the success in their business was the residential character of the neighborhood. In addition, in the short run, this classification will limit the number of new restaurants in the area thus eliminating competitors.

For the residents the delegado’s decision to make the operativo was a major success: pulling out all the fixtures and street furniture in one day, it seemed to be the immediate response of the authorities to their demands. Yet residents’ benefits were the incorporation of their demands to regulate the use of the public space in the Law of Mercantile Establishments and to designate the area as predominantly residential in a partial plan including La Condesa, Hipodromo, Hipodromo Condesa where each block will get a specific land use designation.

In this way, it was possible to solve the conflict without having an up-dated plan (in this case the 1987 land use plan) and in the apparent absence of a law that regulates public spaces for restaurants in predominantly residential neighborhoods. The political
maneuver of avoiding social conflicts in pre-electoral or electoral year ended up being part of political willingness of authorities to solve the land use conflict.

Discretionary decisions also give a lack of certainty on the enforcement of planning tools as we saw in the case study. Legal certainty exists when citizens can anticipate future actions from government that might affect them, given a specific law. Such certainty requires specific plans and detailed laws so that decisions can be derived without ambiguity. The assumption in this scenario is that all possible considerations are already taken into account in the formulation of plans or regulations. This is obviously not the case in Mexico’s planning regulatory system. In Mexico, decisions are taken according to the immediate needs, having as a reference the legal framework. Thus, decisions are made in a political rather than technical fashion, interpreted in the light of policies, but not necessarily following strict guidelines.
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