

HISTORIC DISTRICTS: THEIR ORIGINS CHARACTERISTICS
AND MECHANISMS FOR PRESERVATION

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DAVID R. KOENIG

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ABSTRACT

HISTORIC DISTRICTS: THEIR ORIGINS, CHARACTERISTICS AND MECHANISMS FOR PRESERVATION

By

David R. Koenig

The preservation of historic districts as a part of the landscape has become a very important need. Change is occurring so quickly around us that the remnants of our origins and roots are disappearing. This has brought about a movement to preserve our historic and cultural environment. This movement started as a grassroots effort and has evolved into a national concern.

This thesis has attempted to explore the basis and future considerations for preservation planning and practices related to historic districts. This was accomplished in the following steps: (1) A history of the preservation movement was developed to describe how the concept of historic districts was created and has evolved. (2) The characteristics of historic districts were discussed to help explain the difficult problems which have to be surpassed. (3) Two areas of preservation law were described; first, the theory and legal background of preservation law, and second, the private and governmental powers and existing laws which can be used as legal mechanisms to achieve preservation. (4) The economics of preservation and historic districts were presented to show economic viability as the single most

important aspect of preservation. Three areas of economic considerations were addressed: historic districts and economic considerations for preservation, economic considerations against preservation, and economic mechanisms to accomplish preservation. (5) Finally, the potential impacts, cautions, and implications of historic districts were discussed. This last part of the thesis addressed the issues and problems discovered in the research and writing in the earlier parts of the thesis.

The conclusions of the research and the thesis are:

- From a purely patriotic concern, historic preservation has been evolving to an environmental and social concern for our culture. The transition of historic preservation toward historic districts and amenity conservation has started to surface and be considered as important and necessary. Traffic, air pollution, noise, visual disruption, and unsympathetic architecture are becoming concerns of residents in unique neighborhoods. People have always been concerned with their surroundings, but the type and degree of that concern has been changing.
- With the successful preservation of historic districts in large cities, there is a major dichotomy between preservation and the displacement of the poor. Preservation of an area raises property values and rents forcing the poor to pay or move.
- Preservation needs long-range community support to be successful.
- Each district is different and dynamic. Districts need to be individually studied and a preservation strategy for each developed.

- The zones of transition around historic districts need to be studied and regulations developed. The character of a district is first destroyed at its edges where it is most vulnerable.
- The definition of historic has been too narrow. It should be expanded to include conservation areas which have viable ethnic or community growth significance.
- Legal mechanisms for preservation, as other land use controls, confront the laissez-faire attitudes of citizens toward governmental regulation of private property rights.
- In the long run, historic preservation will be based upon economic feasibility rather than on historic, aesthetic, and legal feasibility.
- The historic preservation of historic districts should be incorporated into an environmental impact and social review process. When creating a historic district, an analysis should be made to review the social and environmental effects of such an undertaking whether they are beneficial or harmful.
- The preservation of historic districts should be incorporated into the community's planning efforts. There is a need to interface all the planning participants which includes the different levels of government and the citizens.
- The urgency for preservation of historic districts is essential and cannot be stressed too much.

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By

David R. Koenig

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CHAPTER I

INTRODUCTION

It's one-thing to save a single building, but it's something else again to preserve a place. To begin with, it's more complicated. Everything that has to be done to save an individual building gets multiplied in saving an area: the space as well as buildings that give an area its character must be identified, interdependent uses must be worked out for them; the practical strategies are more intricate because there are more parties involved. And while one building may conceivably be out of use while it is being restored, an entire area can't be taken out of service. It is a knotty problem, partly because a place, as opposed to a single building, is apt to loom large in the public mind. Saving one takes clairvoyance (to read the public mind), political acumen (because the decisions often end up in the political arena), a grasp of guerrilla tactics (for the in-fighting that comes with preservation projects) and a touch of paranoia (because the threats to a place can be far more subtle than the threat to a building).¹

Statement of Problems

Over a third of the 16,000 structures listed in the Historic American Building Survey (started in 1933) have been destroyed.² The present generation has moved through historic areas of our cities and has erased irreplaceable pieces of our culture and history off the face of the earth. The urgency for preservation of our cultural and historical past has been created by a tremendously increasing loss of "a sense of place."

The factors which have combined to create the urgent need for developing ways to preserve the past are numerous and varied. These }

factors include: rapid urbanization, suburban development, the interstate highway system, the deterioration of buildings, the spread of blight in the old and often historic areas of cities, economic pressures causing displacement, and insensitive tax laws.³

As a nation we have been building new, rather than considering the options of restoration and rehabilitation. Europe on the other extreme has been more concerned with restoration and rehabilitation. The nations of Europe are working with their existing built environment rather than building completely new. This policy not only preserves the historical sense and character of an area, but saves natural resources. In France, Norway, and Sweden listed historical and architectural buildings are protected by stiff laws as opposed to the United States, where listing a landmark does not necessarily insure its preservation.⁴ Europe is further ahead in preserving its cultural resources because there is a commitment towards preservation which America lacks and needs. The scarceness of information and the lack of time did not allow this thesis research to go into the European preservation experience any further.

Efforts of the preservation movement in the United States have been hurt because the prevalent attitude was to discard and abandon rather than preserve. Reasons behind this were the tremendous space requirements of the automobile and the obsessive commitment to private property. As the country becomes more urbanized and suburbanized we are beginning to realize the advantages of holding on to our past, certainly not all of it, but that which we can selectively preserve.

Some preservation has occurred in the United States independent of any conscious historic preservation effort. This has happened in certain areas because of three unique historical situations. The resort and summer homes of the wealthy are left in some areas to remind us of an elegant time past. Other cities and towns have been preserved because they were bypassed by urban development and major transportation routes. At one time being isolated and left alone was thought to be an insult; now it is considered to be a blessing. Finally, older parts of cities have been left intact by poor people. These people did not have the money to renovate or tear down sections of cities and build new. Consequently, older substantial sections of some cities remain much like they were years before.

The problem with existing historic areas and landmarks is not that they exist, but they need to be preserved. Preservation efforts up to now have been sketchy and crisis orientated. Implementation of preservation techniques have been slow and lacking effective control. Solutions must be found and instituted through a comprehensive and integrated planning effort.

Reasons for Study

Why Preserve?

Our problem is to acknowledge that historic conservation is but one aspect of the much larger problem, basically an environmental one, of enhancing--as perhaps developing for the first time--the quality of life for people. Especially is this so for those people who in increasing numbers struggle daily to justify an increasingly dismal existence in a rapidly deteriorating urban environment We have got to look beyond our traditional preoccupation with architecture and history, to break out of our traditional elitist intellectual and aesthetic mold and turn our preservation energies to a broader and more constructive social

purpose as well. We have got to look beyond the problem of architectural artifacts, and think about how to conserve urban neighborhoods for human purposes If we can achieve this, to some extent,⁵ at least, the architecture and the history will fall into place.

Historic preservation has been given a new amplitude in our built environment by new levels of consciousness. A new way of thinking has been evolving as to what constitutes a historic resource. This evolution has been from a single significant site used more often than not for a museum, to economically viable areas which also preserve a character. The areas become more than a token site on the landscape, by defining a place. The historical environment in a community can be developed as a resource.

Another evolution in conscious raising has been the recognition of the total environment as important, not just individual elements. It is being discovered that the preservation of the historic environment and the conservation of the natural environments are both urgently needed.

The importance of preservation is fundamentally related to our history and culture. The sites of our earliest cities were chosen because they were geographically and economically superior to other locations. Harbors, rivers, and places with abundant resources provided locational advantages. These locations today are also important. Cities such as Pittsburgh, New York, Boston, St. Louis, New Orleans, and San Francisco were located in important sites. Today these cities have older areas that contain artifacts representing the significance of their location.

Another reason why we need to preserve is that we cannot afford the throwaway city and economic concepts of the past. We are seeing limits to our natural resources and growth capacities. New building construction involves additional land consumption. Vital agricultural lands and open spaces are being covered with uncontrolled growth of suburban homes, shopping centers, and relocating industries.⁶

Americans need to develop into more than a consuming society, by becoming aware of future problems brought about by needs (a gap between demand and supply).

Benefits of Preservation

When a person thinks about the concept of benefit, right away one thinks of self and momentary benefits. How can I benefit or how much money can I earn from the transaction? In order to survive in our society, a preservation project must be economically feasible or be supported by a supplemental source. For preservation to survive and continue to generate cultural returns over time, it must be of economic benefit and self-supporting. The question arises to how much profit should be derived when taking into consideration aesthetic, social and educational benefits. What is needed is a change in attitude, a new reality that looks into the past and makes remnants of the past important.

The reality of the mid-1970s has been one that does look into the past. This has caused a dramatic revision in the public's attitude toward both the built environment and the natural environment. It is important to talk about this change in attitude because some of the benefits from historic preservation are attitudinally

linked. One of the most important events leading to this change was the public outcry of the late 1960s against environmental degradation which for the first time was vocalized on a massive scale.

This concern did not limit itself to the air, the ocean, and the forest, but was extended to embrace the idea of conservation of the whole environment. The concept of reusing old buildings, of rejuvenating old neighborhoods, and of revitalizing older cities was to take on a new significance.⁷

At the same time we were looking back at the 1950 Urban Renewal days as failures. We looked at what we had destroyed, recreated, and then wondered if we had not made serious mistakes. After the decade of social change in the 1960s, a belief in conservation and preservation emerged. The benefits of reusing older buildings were being recognized. It was shown that reusing older buildings usually required less time and capital than to start completely new buildings. Not only is the revitalization of sound structures and viable neighborhoods less expensive, but rehabilitation is less socially disorganizing and less costly than destruction of building with replacement. Other benefits include the use of historic structures as the basis for economic redevelopment plans and to increase property values which creates a greater tax base for the community.

In summary, when one examines the benefits of historic preservation, one must keep in mind that there are economic, as well as noneconomic benefits. As attitudes change, the proportion between values and economics will change.

Values change over time; structures that once were not significant are now considered historically valuable. When considered

aesthetically and historically valuable, structures are saved by people for less economic return. The awakening of the 1960s with the resulting enlightenment of the 1970s is an important attitudinal change for the future of historic preservation.

Forces Against Preservation

Increasingly, private groups and governmental agencies have recognized the importance of preservation as a part of the urban fabric. But attempts to preserve buildings are still met by a number of different factions. Landowners feel that regulation of private property unconstitutionally takes away their fee simple rights. Developers also believe that their fee simple rights are unconstitutionally taken away in regulation of private property, but are able with money to lobby against preservationists and their land use regulation tools. The lack of information available to neighborhoods or concerned citizens on the mechanisms of preservation and a resulting fear that their property values will go down if any restrictions are enforced, are also realities preservationists have to deal with.

There are many other forces against historic preservation. Some are attitudinal which place all projects ahead of preservation. In the past, urban renewal and highway construction have been such projects. These were rationalized as progress and with the idea that new is better. But, they actually turned into destructive forces many times instead of being productive.

The laws of property and building construction in the past have favored the private landowners in the conflict between private

gain versus community benefit. The economics of real estate, which dictate a higher return of income, have been destructive to the preservation cause. This along with insensitive tax laws have been the cause for tearing down economically and structurally sound buildings for higher profit returns. Also, agencies be they local, state, or federal have been very ineffectual in creating preservation programs that dealt with the problems of preserving historic buildings and areas.⁸

When writing about forces against preservation, one must also discuss the concept of land. It is important to remember that buildings are tied to the land. Unlike moveable objects such as coins and art, historical and architectural buildings are tied to the location they are placed. The value of that land changes as cities develop and grow older. The surroundings in which a building or historic area is located changes dramatically and they cannot be moved easily like pieces of art or coins. A movement to preserve historic buildings was needed because they are artifacts which can be moved only at a great cost and loss of site integrity. The characteristic of a building being set to a location makes its preservation very inflexible.

Another force against preservation is the lack of city planning.

A community preservation program cannot be successful if it is founded in fighting brush fires. Individual skirmishes over landmarks and districts must be an integral part of a system of well reasoned goals and objectives. So long as preservation is approached on a piece meal basis, objectives will be heard over and over as the same problems resurface.⁹

The problem is not only a lack of city planning, but a lack of awareness of city environment issues. Exemplary is the Storm King Power Project and the scenic damage it could have caused to the Hudson River. However less is said about the lack of city planning which allows a skyscraper to dwarf an historic district and change the character of an area. Never addressed is the effect such a project has on the people in the area. The political and governmental system catches environmentally aware persons between issues by blaming them for the cities decline after they have tampered with a project against the wishes of the government.

The conflict between progress and preservation appears more often in the case of historic areas than individual monuments. An individual monument of great patriotic or cultural significance in isolated context is easy to identify and to define for preservation. The identification of a district or area is not as clearly defineable. District definitions constitute a larger area and usually are not justifiable in terms of great patriotic and cultural significance. The larger scale of the district or neighborhood effort multiplies "the traditional preservation problems of legal control mechanisms, financing, and impact on affected citizens."¹⁰

Scope of Study

The principle objectives of this thesis are to study the historical district designations as a mechanism for historic preservation and to analyze the use of police power and other implementation mechanisms to preserve historic areas and districts as part of the American landscape.

The use of historic districting as a tool for historic preservation has raised a number of questions and problems to the planner as preservationist. Preservationists desire tighter control over the use of property and land. They would like to keep the aesthetic and historical character of districts through control and at the same time make their preservation economically feasible. In contrast, the developer does not desire restrictive controls. He would rather be able to do as he pleases without regulation. The individual citizen and land owner within a potential or existing district is often caught on one side or the other. Some want the character of the district preserved and others do not want to be restricted by preservation control mechanisms.

To study the concept of historic districts the thesis will start in Chapter Two with an historical summary and background attempting to place the historic district designation within an evolution of events. These events have raised questions and skepticism about using the historic district designation as a preservation tool. In the third chapter, characteristics of historic districts will be examined, trying to develop some type of descriptive analysis. The fourth chapter will discuss legal mechanisms of preservation. Public and private legal mechanisms will be reviewed along with historic district ordinance characteristics and zoning. Economic considerations and mechanisms will be reviewed and discussed in Chapter Five. Economic viability being an important aspect of historic preservation makes this chapter very important. From the above study, potential impacts, cautions, and implications of

historic areas will be analyzed in Chapter Six taking into account future consideration of development on the American landscape. The conclusions and criteria developed in the previous chapters will then be used to summarize considerations for historic districts. The viability of historic districts using economic and legal tools to preserve them along with social considerations will be discussed.

The reasons for this thesis are the need to address preservation problems and to accomplish preservation. Preservation of historic districts and buildings is an urgent need, this cannot be emphasized too much. The longer we wait, the more we have to lose.

Methodology

An increasing interest in the built and natural environment has expanded the definition of the word environment. This expanded view must include the physical, social, economic, and aesthetic aspects of our daily lives. A broadened interest in the environment has been an outgrowth of an educational development. Society as a whole is becoming more aware of the problems of our environment. The thesis research has evolved out of the expanded definition of environment. The increased interest of the different aspects of our environment also played an important role.

The study of historic districts as a specific area was chosen because of the evolution towards increasing utilization of them and their controversial nature. The study was launched through correspondence and interviews with various people interested in historic preservation, and then continued through an extensive library

research and book review of literature on the subject. From this procedure the following paper was developed.

CHAPTER II

BACKGROUND AND HISTORY OF THE PRESERVATION MOVEMENT

In the United States the first holdings were preserved for patriotic significance. The buildings of the Revolutionary War were being threatened with destruction and so isolated grass-roots movements were organized to save them. The centennial celebration and the crowding of the urban industrial slum gave people a civic awareness for their environment. Next, buildings of architectural significance were considered important. The preservation movement considered architectural style and aesthetics of individual buildings important for preservation.

Williamsburg, Virginia in 1926 became the first area preservation. This third phase in preservation brought about the consideration of preserving a community as a whole or a large area thereof. In 1931, the first historic district, Charleston, South Carolina was formed. The federal government got involved with the preservation movement with the creation of the Historic American Building Survey in 1933. The federal government got more involved with preservation by passing a number of acts related to preservation. Some of the acts were beneficial and some very harmful and destructive. The urban renewal program destroyed many areas of major cities with the philosophy of old is bad, new is better, resulting in

bulldozing sections of cities. Then in the 1960s we started to learn from our past mistakes and were becoming more environmentally sensitive. The gap between the preservationist, environmentalist, and the people oriented neighborhood conservationists began to lessen with the growing magnitude and seriousness of urban problems.

Patriotic Orientation

The preservation movement's ideology was formed in Europe. John Ruskin and William Morris in England believed that restoration in the strictest sense was an impossibility and so also preservation. Ruskin in his book the Seven Lamps of Architecture (1849), said that restoration was a form of destruction. King Louis Philippe of France appointed an Inspector of Monuments in 1830 to carry out a building inventory. The completed inventory reserved the government's right to prevent any change of privately owned historic buildings. In France during this period an architect named Viollet-le-Due was doing restoration work. From his beliefs the idea was developed that a proper restoration could actually take a building to a state of completeness that never had existed after its original construction. In Sweden, Dr. Artur Hazelius began in 1891 to put together the world's first outdoor museum in a Stockholm park. This park was called "Skansen" and was a collection of Sweden's cultural history featuring old buildings. This concept of museums spread through Northern Europe and then into the United States.¹¹

As can be seen, the American preservation movement did not develop in isolation. Ideals for such a movement had already been developed and discussed in Europe. However, people in America started

to save buildings as a result of a need. That need was to save buildings of patriotic significance. Up to the mid-nineteenth century, revolutionary war structures had not really been considered greatly important to preserve. But with the coming of the centennial observance in 1876 and since numerous buildings from that era were being threatened with destruction, a need was perceived by many.

The Hasbrouch House in Newburgh, New York, can be considered the first accomplishment of the American preservation movement.

This building was Washington's headquarters for the last two years of the Revolutionary War. There was no organized preservation effort, but Washington's headquarters became the first historic house museum after being purchased by the State of New York in 1850. Independence Hall which received support from the City of Philadelphia is another building which exemplifies governmental assistance in preservation. These two efforts laid a framework for other municipal and state preservation in New England.

In sharp contrast, there was the failure of the City of Boston and the State of Massachusetts to save the Hancock Mansion. This failure created a distrust involving legislative machinery among many New Englanders which persisted many years. However, the destruction of the Hancock House contributed more to the preservation movement as a whole than if it were still standing. Over the next fifty to sixty years the Hancock House was a rallying point for preservationists.

While scattered attempts were going on in the 1850s, a great national movement was taking place which was to establish a pattern

of success for preservationists over the next several decades. The most successful effort during the movement was started in March of 1856, by a group of women.¹² Their goal was to purchase and maintain Mt. Vernon, the home of Washington.

The individual most responsible for the Mt. Vernon effort was Miss Ann Pamela Cunningham, who made it her life's work. The most important aspect of this effort was the national organization that was set up to educate people on raising funds. This organization top down, went from Miss Cunningham as Regent, to a head for each state organization (Vice-Regents), to women managers for every county, town, or village in each state. This comprehensive organizational approach was the first of its type and was used as a model for other organizations and their efforts.

Part of the credit for the Mt. Vernon effort must be given to Mr. E. Everett of Massachusetts, a former Senator and well-known orator. He was whole-heartily behind the cause and became its spokesman. He gave lectures about Washington and Mt. Vernon and the money raised went to the Mt. Vernon Ladies Association. Their efforts gave the United States a national shrine and an organizational framework for effecting change by the people.

Civic Awareness

The first significant preservation in the Middle Atlantic States after the Civil War involved the enclosure of a number of elegant 18th and 19th century houses to become a part of Fairmont Park in expanding Philadelphia. The idea of Fairmont Park originated when the City of Philadelphia constructed waterworks on the Schuylkill

River. The park was built around these waterworks shortly after the War of 1812. A second addition, containing a house called Lemar Hill, was added in 1844 to protect the water supply from commercial pollution. Gradually over the years the Lemar Hill section became a place reserved for public use. In 1867, the enabling legislation to create Fairmont Park stated that the "idea in originating the scheme for a park of great extent and beauty was to provide a place in which the poorer classes of . . . fellow citizens and their families might find health and recreation."¹³

This attitude indicates the beginnings of a civic mindedness that rose up against the crowding of urban industrial slums. Quality of life was being considered as beneficial and valuable. A score of notable houses were saved from the uncontrolled growth of Philadelphia due to the sentiments for Fairmont Park.

The Centennial celebration in Philadelphia generated enthusiasm for the built environment.¹⁴ This enthusiasm aroused more interest in the American Revolution, than old buildings as such. But old buildings also could not fail to attract some attention. The centennial celebration made people aware of a past worth study.¹⁵ This interest was more descriptive than preservation oriented. Authors of articles in the 1880s and 1890s did not actively support the preservation movement, but wrote to simply educate the public on interesting buildings. The romantic elements of history for each structure were stressed in these articles.

Architectural Significance of Buildings

New England as a region was known as the home of militant private preservation groups. With the destruction of the Hancock House, people of New England seldom turned to governmental agencies for support in their preservation work.¹⁶ Out of this region known for its negative New England attitude towards governmental help and for its historical societies, came a man named Mr. William Summer Appleton. Appleton maintained his New England feelings, but at the same time approached a new way of thinking about what one should preserve. In 1916 he said, "It is much to be regretted that the preservation of the best local architecture is not yet considered in the normal work of these local societies."¹⁷

Appleton's request was directed towards local preservation groups not only because of his distrust in government preservation, but also because state agencies at this time tended to become repositories for historical materials. These state agencies were near centers of population where historical materials were available. At this time local historical groups were more interested in preserving buildings than were state agencies.

A patriotic emphasis emerged from the romantic tradition of architecture, and architectural restoration became the principle focus of the movement. Appleton started the Society for the Preservation of New England Antiquities in 1910. This was a regional preservation society, but it reported the local feelings in the preservation movement. This movement was created because Appleton had a deep concern for the rapidly disappearing antiquities and their architectural

value. In 1918, Appleton proposed an amendment to the Massachusetts state constitution making the preservation and maintenance of old houses "a public use."

The Society for the Preservation of New England Antiquities led by Mr. Appleton was the only group that thought architectural importance was greater than an association with a patriotic person or happening. So Appleton was chiefly concerned with preserving buildings by any means possible rather than exhibiting them for inspirational purposes. Appleton expressed the validity of architectural beauty or uniqueness, unrelated to historical association, as a criteria for preservation and he sought to preserve buildings for continued use rather than for exhibition. This new notion helped to keep buildings in current use, as a part of American life, rather than making them into museums and isolating them as objects of inspirational esteem. This ideology of Appleton's and the Society for the Preservation of New England Antiquities had far reaching impact in the future of the preservation movement.

Standards for Selecting Buildings for Preservation

Over the years standards used in choosing buildings to be preserved have changed. Initially, it was patriotic inspiration, then local and civic pride and finally architectural or aesthetic enjoyment. A hard and fast rule by some was that a building should have outstanding historical and cultural significance in the nation, state, region or community in which it existed. These types of buildings were made into historic home museums by the thousands and

supported by taxes and historical societies. But what standards were used?

The majority of preservationists did not spend much time thinking about standards in selecting buildings to save. For the most part the main reason for preservation was the immediate danger of destruction. Only when a structure was threatened did people begin to try to save it. But beyond this, the reason for saving the building generally involved a mixture of inspirational and practical advantages. The patriotic criteria for a house museum was the reminder of hardships suffered by revered ancestors or a beautiful example of the peace and harmony of the complicated past. This also involved an aspect of pride, be it ancestral or local.

Beginning in the 1900s it became evident that popular historic buildings were tourist attractions. Characteristic of this time, old buildings were saved by means of emotional appeal. People lacked a sense of awareness of the built environment. Even though Appleton started an awareness of architectural and aesthetic considerations for preservation, not everyone shared these considerations. Aesthetics carried little weight with politicians. An example is when the Boston Society of Architecture wanted the Massachusetts legislature to save the Bulfinch State House in 1896. They said that money could only be voted "as a matter of sentiment" not aesthetics.¹⁸ A. Lawrence Kocher, chairman of the A.I.A. Preservation Committee, gave the general sentiments of the pre-1926 attitude.

The public is not readily persuaded where matters of beauty are concerned. People appreciate old buildings for sentimental reasons, such as that they might have housed General Washington for a night. They do not understand, nor treasure, them for their construction or understanding architectural value¹⁹

Building Groups and Their Setting Importance

The third major impact on the preservation movement was the restoration and rebuilding of Williamsburg, Virginia. This third phase brought about the consideration of preserving a community as a whole or a large area thereof. This idea sprang from the dream of Reverend William A. R. Goodwin and the financial support of John D. Rockefeller, Jr.

In the late 1920s Dr. Goodwin convinced Mr. Rockefeller of the urgency of saving historic Williamsburg, since it was one of the last colonial era towns left. Land was secretly bought up and in June 1928 the intentions of the Williamsburg Holding Corporation (now Williamsburg Restoration Inc.) were revealed. Architects Perry, Shaw, and Hepburn of Boston were hired and Arthur A. Shurcliff, also of Boston, was placed in charge of landscape restoration and city planning. Buildings were both restored and reconstructed in an attempt to bring back colonial Williamsburg. The restoration of Williamsburg brought to the historic preservation movement the idea of saving and reconstructing buildings in relation to their neighborhoods while trying to restore an entire town.

Unusual circumstances made Williamsburg possible. First, the unprecedented financial support of Mr. Rockefeller who donated 68.5 million dollars before his death in 1960. Thus, by 1969, 80 buildings had been restored and 45 reconstructed at a cost of \$80 million.²⁰ Second, Williamsburg was relatively small and was in an isolated place. Industrial growth passed it which created an atmosphere where time had all but stopped. Today, Williamsburg is a museum piece of

18th century fantasy in which the life style of that time has been put behind a glass case with no general application for implementation to other projects of today.

The example of Williamsburg and its astounding success (the project now draws one million visitors a year) led in time to the creation of other museum villages such as Old Salem in North Carolina, Mystic Seaport in Connecticut, and Plimoth Plantation and Old Sturbridge Village in Massachusetts.²¹

Another effort to save a group of buildings and their surroundings was happening in Deerfield, Massachusetts. Through the joint effort of the Pocumtuck Valley Memorial Association (a historical society founded in 1870), the Deerfield Academy (a boys school of national reputation), and the Heritage Foundation, an attempt was made to be sensitive and aware of the historical and architectural character of the town. The objective of these organizations was not an antiquarian restoration to any particular period (for everything from the 17th to the 20th century was to be found in Deerfield), but the maintenance of the town in which people live, teach, and learn. They were trying to create a place where the best of the past was enhanced by thoughtful improvement and additions.

Williamsburg was preserved for exhibition, while Deerfield was being planned and saved for continued daily life. But both were efforts to recreate a past that is very different from the pressing, growing, and surrounding present. Williamsburg can be described as a dream obscuring reality. In other cities where this dream is not possible and reality is present, other means were developed for preservation. People wanted to save noteworthy buildings for the more practical idea of continued use, sometimes for original use,

but other times with adaptations that were compatible with the architectural character of the area. These new feelings evolved into another stage of the preservation movement where private initiative was being augmented and strengthened by public legislation, particularly for the creation of historic districts.

The Creation of Historic Districts

In the late 1920s and the 1930s three events occurred to change American thinking about historic preservation. First, the restoration of Williamsburg (previously talked about), second, the initiation of historic district legislation, and third, the entry of the federal government into the field of preservation with the creation of the Historic American Building Survey (HABS).²² Before Williamsburg Americans were preserving monuments, not character. We recorded the course of American architectural development through the identification of material and regional "greats." We were in the process of stylistic identification and using the concept value of "antiquities" (the quality of being old).

The acceleration and broadening range of preservation activity was perhaps best demonstrated by the spread of historic district architectural controls. The historic preservation tools of architectural controls are a 20th century concept to expand historic preservation methods. A historic district is simply an extension of zoning under the control of police power. It aims to control external appearances of a building without restricting ownership or use. When establishing a historic district, an exact definition of the

district is required. A commission or architectural board reviews exterior changes on buildings designated within districts.

The historic district was a new concept first started in the early 1930s. The historic district concept was initiated with the general public benefit in mind. The idea was to restrict more than ever the ability of the private citizen to change his property exterior within designated neighborhoods.

This intensification of the police power, through selective local zoning . . . spawned many such other areas, referred to in their county as historic districts, and gave rise to the necessity to develop new attitudes and definitions of preservation as a form of city planning. Into the roux of historicity have thus been stirred architectonic excellence, spatial relationships and street furniture, among others. Out of this matrix has developed our current concern for that which the French call ambienal preservation, the British, conservation areas, and the Americans, old and historic districts.²³

Until this time preservation efforts were privately sponsored, locally initiated, and focused their attention towards a single structure to be used as house museums. The acceleration and broadening of the range of preservation activity was perhaps best demonstrated by the spread of historic district architectural controls.

The first historic district was established in 1931 in Charleston, South Carolina and developed with a land use and zoning plan for the city. The action was backed by local citizen groups. The most well known being the Society for the Preservation of Old Dwellings. Public hearings were held with no serious opposition to the district, so the city council voted to include the "Old City District" into the city's zoning ordinance.²⁴

The next historic district was the Vieux Carre' historic district in New Orleans, Louisiana, established in 1937. The New

Orleans Commission Council used the state enabling legislation for architectural control to define by ordinance the Vieux Carre' district of the city. The Council created an advisory commission for the district because the encroachment of modern business was gradually disturbing and destroying the historical spirit of Vieux Carre'.

From the 1930s until after World War II there was little or no activity in furthering the development of historic area preservation laws. There were few isolated examples of concern in historic preservation across the nation. But interest in historic districts was revived shortly after World War II when Alexandria, Virginia, passed an historic district ordinance. By 1966, the total number of historic districts blossomed to over 60 and included approximately half the states. More than 125 have been established since that time. The legal right to establish historic districts will be covered in Chapter Three of the thesis.

The important point to make about historic districts is that the ones designated in New Orleans and Charleston are very unique areas. They are not typical areas of cities in our country and so they were created as historic districts earlier than other less historic areas of cities. At the same time, there are areas of cities that need saving, but ones not as historically and unusually unique as the previously mentioned districts. These areas use established historic districts as examples to learn from their past accomplishments and mistakes.

Legislative History

As mentioned before one of the three events in the late 1920s and the early 1930s to change America's thinking towards historic preservation was federal government legislation establishing the Historic American Building Survey in 1933 (HABS). This was not the first federal legislation related to historic observation, but up to this time the most influential. The federal legislation is listed in chronological order with a brief description in the following discussion.

Antiquities Act of 1906

This is the first real national preservation statute giving the President the right to establish national monuments on governmental land. The first national landmark was initially authorized by Congress in 1889 to save ruins of a prehistoric Indian adobe. The Act also gave power to "the Secretaries of the Interior, Agriculture, and Army to formulate rules and regulations governing archeological sites and objects of antiquity as the land within their jurisdiction."²⁵

Historic American Buildings Survey (HABS)

It was established in 1933 without specific legislative authorization, but as a relief measure to employ architects during the Depression. The program was coordinated by the National Park Service in cooperation with the American Institute of Architects and the Library of Congress. The survey collected photographs, drawings, and other historic and architectural data in an effort to document

historic American buildings. This information is stored in the Prints and Photographs Division of the Library of Congress.

National Historic Sites Act of 1935
16 U.S.C. 461 to 467

This act declared preservation of historic properties to be a national policy. Authority was given to the Secretary of the Interior, through the National Park Service to collect data, make surveys and investigations of historic sites and buildings, acquire property, enter into contract agreements with individuals as groups for preservation purposes, restore historic buildings and sites, erect markers on historic places, generate and manage historic sites and buildings, and develop an educational program.²⁶ Also created by the act was the Advisory Board on National Parks, Historic Sites, Buildings and Monuments.

Act of October 6, 1949
16 U.S.C. 468 to 468d

This act furthered the policies of the 1935 Historic Sites and Building Act and created the National Trust for Historic Preservation. The National Trust was established to be a charitable and educational nonprofit corporation. The board of trustees included, the Secretary of the Interior, the Attorney General, and the Director of the National Gallery. Despite the broad scope of the enabling act, the major concern and effort of the National Trust has been to provide a source of information to the public. It is a clearinghouse of information for projects all over the United States. The National Trust is constantly developing a system of criteria to evaluate and

review preservation tools, and local Governmental agencies rely on them for help and assistance.

National Historic Preservation Act
of 1966 16 U.S.C. 470 to 470n

The most significant features of this act can be divided into four parts. First, it expanded the National Register to include buildings, sites, districts, and objects of local, state, and regional, as well as national significance. The National Historic Sites Act of 1935 had dealt only with property of national significance. Second, the 1966 act afforded property on the National Register a certain degree of protection from possible adverse effects of federally funded or licensed undertakings. Third, the 1966 act authorized grants-in-aid (1) to states to fund the preparation of comprehensive statewide surveys of historic sites and plans for the preservation of those sites, (2) to match state funds for preservation projects, and (3) to the National Trust for Historic Preservation to match Trust Funds. Fourth, the act created the Advisory Council on Historic Preservation.²⁷

After the passing of the Historic Preservation Act of 1966, governors of each state were asked to appoint a state historic preservation officer to oversee preservation policy and to administer a grants-in-aid program available from the U.S. Department of the Interior. The Department of the Interior would like to formulate criteria to regulate the selection of State Historic Preservation Officers. These officers have often been individuals with either background in the preservation field or have conservative ideas of preservation. The officers have often been more concerned with archival preservation (which saves the "monuments and landmarks") rather than a comprehensive approach.²⁸ The duties of the director of the state preservation office are:

- (1) to administer federal grants,
- (2) make surveys of historic resources,

- (3) oversee the certification of valuable properties through the National Register of Historic Preservation or a similar state register,
- (4) review federal required Environmental Impact Statements, and
- (5) carry out various planning, technical assistance, and education functions.²⁹

Department of Transportation Act of 1966
23 U.S.C. 138 and 49 U.S.C. 1653(f)

This act extended the protection of historic sites that were affected by federally funded or licensed transportation projects. This act is different than the National Historic Preservation Act of 1966 in that not only properties that are on the National Register are eligible, but also state and local designated historic buildings and districts. This act established historic preservation as a policy in the Department of Transportation. The act also states that the Secretary of Transportation should not give approval to any project that destroys, alters or uses a historic property ". . . unless there is no feasible and prudent alternative to the use of such land, and that such programs include all possible planning to minimize harm."³⁰

National Environmental Policy Act of 1969
42 U.S.C. 4321 to 4347 NEPA

This act established the Council of Environmental Quality and environmental impact analysis procedures. NEPA has a requirement that federal agencies file an environmental impact statement for all "major" actions with the Council of Environmental Quality. "Major action specifically includes proposed legislation, regulation and

procedures, policy determination and proposed projects expected to affect the quality of the environment significantly."³¹ Quality of the environment includes "important historical, cultural and natural aspects of our national heritage."³² Coordination with the National Preservation Act of 1966 and Executive Order 11593³³ is required so a single environmental impact state is made to comply with the act.

It ordered federal agencies to:

(1) co-operate with the Advisory Council of Historic Preservation in formulating procedures for protecting nonfederally owned historic property (these regulations are now Part 800 of Vol. 36 of the Code of Federal Regulations), (2) nominate property under their control that appears to qualify for the National Register, (3) allow the Advisory Council on Historic Preservation to comment prior to any action by the agency that would alter property which meets National Register criteria, and (4) prior to altering property on the National Register, deposit drawings, photographs, and data on the property to the Historic American Buildings Survey.³⁴

The definition of what projects should be given E.I.S. consideration is changing with court determinations and interpretations. So far, the following should be included in the impact statement:

- a detailed description of the proposed action;
- a discussion of direct and indirect effects on the environment that may result from the action;
- identification of unavoidable adverse environmental effects;
- an assessment of feasible alternatives to the proposed action;
- a description of cumulative and long term effects of the action on resources;
- identification of any irreversible commitment of resources that might result from the action.³⁵

Urban Mass Transportation Act of 1970
 49 U.S.C. 1610

This act has historic site defense provisions resembling the Department of Transportation Act of 1966. No federally funded transportation projects will be given approval unless they consider all other alternatives, with a special effort to save any historic area or site. The project also should try to minimize its effect on any historic area or site.

Housing and Community Development Act
of 1974 Public Law 93-383, August 22,
 1974

This act brought together and expanded housing programs, including historic preservation projects, which were included in the Housing Act of 1949, 1954 and 1961.

Grants for up to 66 2/3% of the costs of the programs are authorized for the relocation, restoration, and/or acquisition of structures and sites of historic or architectural value by eligible cities, counties and towns. Previously the funding had been on a categorical basis, but Title I of the new act provides for block grant funding, which means local governments will have considerable more freedom from federal control over how the funds are utilized.³⁶

President Ford signed three acts important to the scope of this thesis: an act to increase federal funding to historic preservation, the Tax Reform Act, and the Buildings Cooperation Act.

The first act authorizes substantial increases in federal historic preservation funding. The new act signed on September 28th, 1976, would start a special historic preservation fund in the U.S. Treasury. The monies would come from the sale of off-shore mineral and oil leases. The new act S.327 was introduced by Senator Henry M. Jackson (D-Washington) and increases the level from \$24 million for

fiscal year 1977 to \$100 million for the next two fiscal years and \$100 million for 1980 and 1981.

The money would be for matching grants to the states and some would go to the National Trust for Historic Preservation. The legislation also amended the National Recreation Act of 1966 to make the Advisory Council on Historic Preservation a fully independent agency. The next step for the Council would be appropriation of funds.³⁷

Another measure, the recent Tax Reform Act, signed October 4, 1976, by President Ford will reverse the existing bias of the Internal Revenue Code--at least insofar as it applies to registered historic structures or districts. It will eliminate all tax deductions for the cost of demolishing historic sites and districts, will limit annual depreciation allowances for structures that replace them, and will permit accelerated depreciation methods for restored buildings.³⁸ (More on this act in Chapter Four).

The third crucial bill signed October 19th, 1976, by President Ford is the Public Buildings Cooperative Use Act. This act is based on recommendations from the National Endowment and will permit mixed uses (such as retail on lower floors) in federal structures and will require federal agencies to consider adapting existing buildings before deciding to build new.³⁹

Urban Renewal

In the mid-twentieth century there was a stimulated interest in historic preservation. Two separate movements reached the level of federal recognition in the form of congressional Acts. First, the

creation of the National Trust for Historic Preservation in 1949 (as discussed previously) and the Housing Act of 1949 which was designed to arrest the decay of American cities.

The Housing Act of 1949, known later as Urban Renewal, did more harm than good. Congress asserted in the Act that it was a national responsibility to provide a decent dwelling for every family. This did not proceed very far. The program was designed to serve "the city as a whole" by cleaning slums, improving the tax base, and retrieving the middle class from the suburbs. The program, which was to benefit low income people by giving them better housing, actually intensified ghetto deterioration and benefited the middle-class housing market and the general business community. Whole areas of cities were leveled by the bulldozer. Neighborhoods were broken up, significant "areas" destroyed, and people brutally relocated.

Sociologist Nathan Glazer said, "Urban Renewal was further fractured, one may hazard, by the low state of the art of architecture and physical planning in this country in the fifties."⁴⁰ In addition to the aesthetic failure of twentieth century architecture to fill the urban renewal voids in the cities with anything meaningful in human terms, there was growing concern over economic and social factors within cities. These considerations were not part of the grandiose idea of the policy makers and politicians. Many serious participants started looking for alternative solutions for the city's future.

A small, but articulate group of the public in many American cities began to question the wisdom of total removal of structures

through urban renewal. Not only were worthy structures being demolished, neighborhoods and social patterns were being destroyed. People interested in preservation saw many historic structures demolished and became concerned about historic buildings in areas scheduled for future demolition.

The people concerned with the effects of urban renewal were of three types:

- (1) A group having a strong educational background along with reformist ideas.
- (2) Citizens who were becoming aware of their built environment and were giving a new set of values to the monuments and relics of America's history. And,
- (3) Local governments who were starting to base their financial policies on aesthetic appeal rather than on purely economics because tourism was seen as important.⁴¹

An example of the tourist economic benefit is Richmond, Virginia.

Historic districts are seen here as producing material advantages for the community as well as cultural and heritage of the area We must not overlook the fact that the visiting of historic places is of a very great commercial value. Our tourist trade has been estimated at over \$5,000,000. These people did not visit Richmond because it possesses nothing it can be distinguished from the other cities but because it possesses historical landmarks which are treasured by many.⁴²

The blend of the dollar sign with the market of antiquity has contributed much to the maintenance of historic landmarks, buildings and areas. This was not true the majority of the time during the urban renewal days.

Urban renewal projects were based on locally determined plans. Most local agencies were not sensitive to or concerned with historic

buildings and so many were destroyed. The renewal process prime objectives were the destruction of slums or blighted areas and the feasible rehabilitation of buildings. The emphasis in most cities was on the destruction rather than rehabilitation. The idea was to make cleared land available so developers would be encouraged to build in downtown areas.

The feasibility of rehabilitation depended on two criteria. First, did the proposed land use in the rebuilt area conform with existing structures? Secondly, is it financially feasible to rehabilitate, repair, and recondition the existing structures? Within the average local renewal project when the cost of fixing up a building was greater than its value compared to the surrounding or new construction, then feasibility was considered not possible by conservation motives. The only way it was considered possible was if the difference between the market price and the true historic value once restored was assumed by someone.

A few cities did incorporate into their master plans historic districts as part of the plan when they realized the opportunity for using urban renewal funds for preserving and developing such districts. Funds could be used for:

- (1) Financing surveys and planning work. This may include an inventory of the historic buildings and sites in the project and site plans designed to enhance the intrinsic values of the historic buildings or area.
- (2) Acquiring land and structures in the project area. This includes buildings in danger that can be restored and preserved by interested private citizens or groups or by public agencies.
- (3) Preparing the area redevelopment or conservation in accordance with an urban renewal plan. Blight that threatens historic buildings can be removed, and historic structures to be conserved can be relocated within the project.

- (4) Installing site improvements and public utilities in the project area to enhance and protect the historic sites and buildings and provide a more suitable setting.⁴³

The following cities used urban renewal funds with historic preservation in mind.

- (1) Cape May, New Jersey--the Victorian Village Project,
- (2) San Antonio, Texas--the Navarro House,
- (3) Rome, New York--the Fort Stanwix site.
- (4) Portsmouth, New Hampshire--the Strawberry Banke project
- (5) Mobile, Alabama--the East Church Street project,
- (6) Monterey, California--the Customs House,
- (7) Bethlehem, Pennsylvania--the Monocacy Creek project,
- (8) Savannah, Georgia--the Troup Ward area,
- (9) Philadelphia, Pennsylvania--the Society Hill project,
- (10) New Haven, Connecticut--the Wooster Square area,
- (11) York, Pennsylvania--the Gates House and Golden Plough Tavern,
- (12) San Francisco, California--the Western Addition Area Two Project,
- (13) Washington, D.C.--the Southwest project,
- (14) Norfolk, Virginia--the Downtown project,
- (15) Plymouth, Massachusetts--the Summer-High Streets project,
- (16) Little Rock, Arkansas--the Quapaw Quarters,
- (17) Rochester, New York--the Third War Area,
- (18) Chicago, Illinois--the Lincoln Park Project, and
- (19) San Juan, Puerto Rico--the Old San Juan area.⁴⁴

The projects listed above were for the most part a minimal preservation. They usually included only a few buildings of

historical significance with the majority of the area being torn down. It was not necessarily done with insensitivity though.

The plan requires that these structures be retained and (remodeled so as to) develop reasonable useable space without destroying the very character of the building which makes it worth preserving. Also in the plan new shopping facilities, separation of vehicular and pedestrian traffic, more parking facilities, and scenic plazas surrounding some of the major historic buildings.⁴⁵

The efforts were orientated toward preserving and restoring pinnacle buildings and then building new structures around them. Area preservation was not even considered.

The following historic preservation studies were funded under the demonstration grant study program:

- (1) Providence, Rhode Island--the College Hill Study
- (2) New Orleans--Vieux Carré, study by local officials interested in preserving the entire area, residential and commercial.
- (3) New Bedford, Massachusetts--the study of a famous 19th century whaling center for a commercial center.⁴⁶

The thrust of these studies was to take prime examples of historic areas and to conduct a demonstration study aimed at developing and improving techniques for urban renewal in historic areas. The scope of the studies was to include a development of ideas and techniques "which would prove helpful to other cities in their efforts to renew or preserve historic areas."⁴⁷ The objectives of the College Hill Study included the following:

Designed as an intensive city planning study, the purpose of the project has been to consider the broad range of community problems which beset an old section of a city and to develop proposals for the solutions of the physical, economic and social problems of College Hill. A primary intent of the study has been to develop methods and techniques for a program of preservation,

rehabilitation and renewal in a historic area which can serve as a guide for other areas with similar problems. The specific aims have been to:

- (1) develop a system for rating historic architecture;
- (2) develop techniques for integrating areas of historic architecture into proposed redevelopment programs;
- (3) develop a comprehensive master plan for the future growth of College Hill, in which the plans for the historic area take their place in the framework of the larger neighborhood plans;
- (4) develop comprehensive program of historic area preservation by reviewing methods in use elsewhere in the country and combining these with the new ideas developed in the study;
- (5) demonstrate visually how contemporary architecture can successfully relate to existing historic architecture; thus attempting to dispel the idea that historic area preservation need foster eclecticism.⁴⁸

Generally the policies of the 1950s that promoted growth and new construction were a backstep for preservation. New highways, the rapid suburbanization of cities, and lack of legal protection for historic areas and properties took their toll. The objective of traditional preservationists was to preserve the "gems" of historical and architectural past, instead of concern for the area's character and the "sense of place" they created. Even for people who were interested in preserving the "gems," the legal tools and financial help were virtually nonexistent. Areas were nearly impossible to preserve. It was not until the 1960s that support arrived in the manner of legal and financial tools.

Preservation of the 1960s and After

The traditional view of historic preservation is functionally dead. This view of saving the pristine structures and districts as museums or tourist areas is limited to only a few areas. Other areas of the country are also valuable to preserve and conserve. Areas with a sense of place and character which form a neighborhood have

become very important along with the concern for social, urban, and environmental issues. People are pressing for revisions in the bulldozer approach to city rebuilding. In the last decade, Congress and other government policymakers have become concerned and interested in reusing older buildings in declining areas. During the heyday of urban renewal programs, there was money and impetus, but an obvious lack of comprehensive ideas and planning. Today the ideas for city work, urban form, and recycling exist as reaction to past mistakes, user needs, and user demands. It is clearer now, after all our mistakes, but money is scarce for such projects, unlike the urban renewal days.

Historic preservation once supported mainly by historians, broadened its movement to include the disciplines of planners, architects, landscape architects, engineers, public officials, realtors, writers, lawyers, artists, bankers, and publishers. The movement of the 1960s within the cities was, therefore, directed towards perpetuating architecture and aesthetics of individually notable buildings as well as historic districts. Historic appreciation was important but was well tempered by social concern and aesthetics.

The planner's concern presently is an outgrowth of lessons learned during urban renewal of the 1950s. They discovered that the following were important in setting up a program:

- (1) Checking out whether state enabling legislation is necessary for the preservation project.
- (2) Determining whether municipal zoning ordinances are on the books to protect historic districts.
- (3) Coordinating re-use planning to take into account both the condition of the historic building, or buildings, and the

relationship of the building, or buildings, to the long-range plans for the city: shall they be restored for public use, rehabilitated for private use, moved to a new setting, or regretfully abandoned?

- (4) Arranging financing on the basis of the alternative re-use plans noted above: (a) land and building sale after clearance for private restoration, (b) voluntary owner rehabilitation, (c) public rehabilitation for disposition, (d) combination of the public and private financing.
- (5) Capitalizing on the pride and affection for the old home town that is to be found among a community's citizenry in abundance, regardless of economic or social status--a fact that can bring the warmth of new friendship to renewal from those who may have seen the program only as a harsh destroyer and heartless displacer.

All up and down the line, elements that are inherent in historic preservation programs are the same elements that get repeated emphasis as fundamentals of urban renewal policy: recognition of the importance of good design and urban aesthetics; strong reliance on citizen initiative and participation; insistence on the retention of local autonomy.⁴⁹

Urban Renewal in the 1960s was still talked about but different concerns were considered. As one writer put it:

The success of renewal work now may in many places depend in increasing measure on the ability of planners to acquire adequate understanding of the preservation movement and the techniques of identification, documentation, evaluation and interpretation and of the physical repair and restoration of old buildings Very few cities have yet done the kind of identification and evaluation necessary to uncover and take advantage of buildings best evidencing their architectural conditions. Most cities have far more architectural and historic interest than they realize.⁵⁰

What can be concluded about the 1960s was that new ideas were being expressed, but still the effort lacked something. Preservationists of the 1960s were fearless in preserving a "monument" in the way of a proposed freeway. But they were timid in the thought of demanding the conservation of a threatened group of structures which were of indigenous architectural character. "Monuments" or "gems" of significance were greatly contested, but neighborhoods were lost. An

example is New London, Connecticut, an old and historic sea coast town, in which the local renewal authority identified only 19 structures in a 90 acre project which were worth saving. The majority of these structures were public buildings or churches.⁵¹

Taking the background factors we have talked about there has been a gradual shift in attitude that began to emerge in the early 1970s. Up to that time, as already discussed, there was a separation between the preservation of historical, cultural, and architectural landmarks in specific distinctive urban neighborhoods: from the idea of saving not only these areas but also the many less distinguished areas for the benefit of the resident. The last concept was discussed in public policy in the 1960s, but the solution was in clearing the land and building new housing and office buildings.⁵²

The gap between the preservationist and the people oriented neighborhood conservationists began to lessen with the growing magnitude and seriousness of urban problems. The middle class moving to the suburbs, inflation in building costs, and the economic problems of saving individual "landmarks" were all problems to contend with. Also, people started taking an interest in the city and some of the upper middle class started returning.

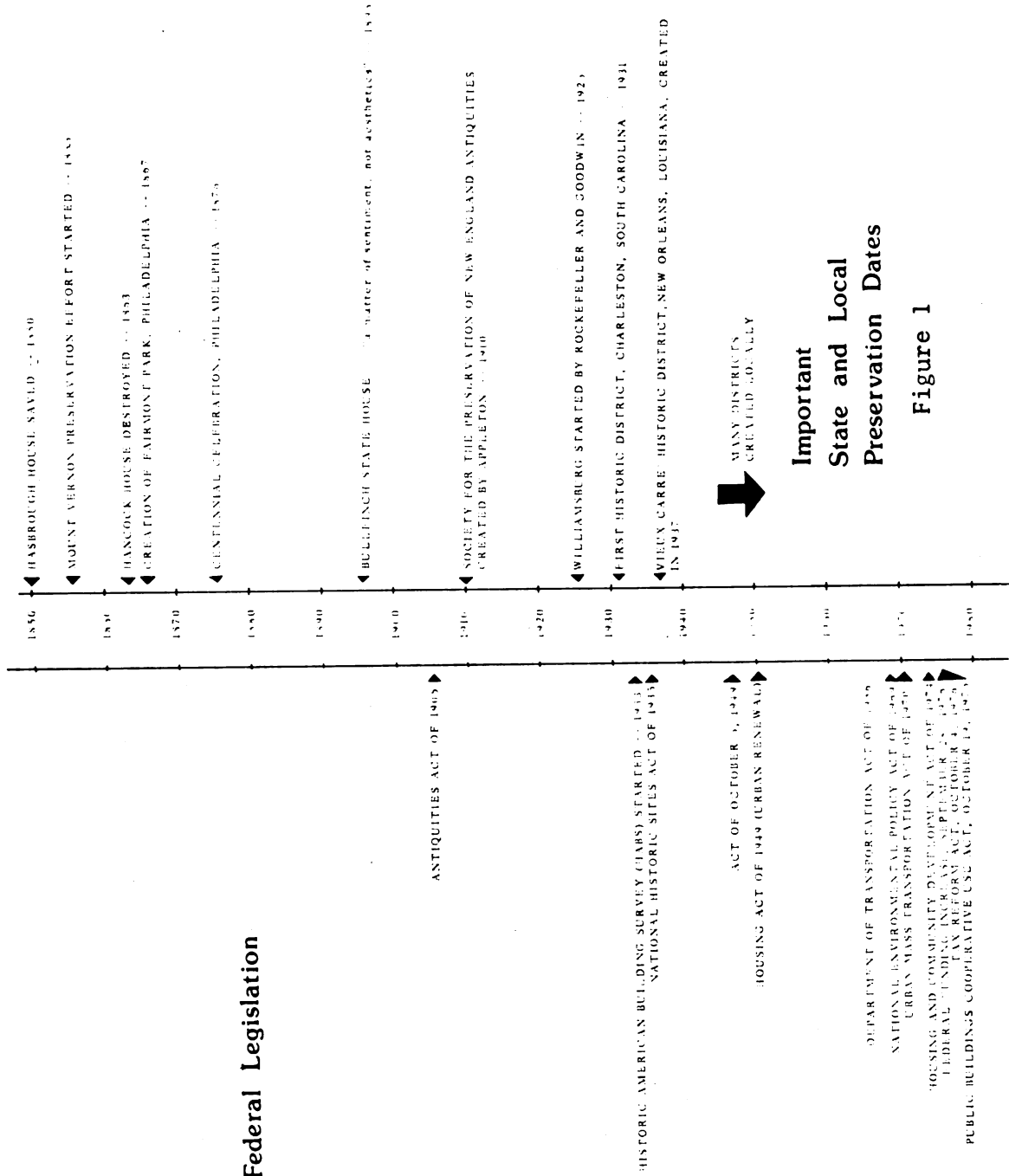
A more broad view of preservation was evolving in the form of concern for whole areas rather than individual structures. An ideological conflict arose between newer is better versus conservation and integration of the old and new. The concept of saving intercity neighborhoods grew with the conservation movement to save other

resources. The meaningful built environment was thought of as a resource just as much as natural resources.⁵³

It is being recognized that we must find contemporary uses that are economically feasible as part of the urban problem solving process. There is an awakening to the fact that our cities and countryside are losing their characteristics of environment and setting for human enjoyment and profit. Preservation has gone into the realm of something more than an antiquarian plaything. Past preservation techniques alone will not accomplish the stabilizing of historic and older districts/neighborhoods. The pressures are too great. Historic district zoning originally intended to ensure their stability has failed.⁵⁴ Private individuals have increasingly gone to private covenants, deed restrictions and easements to slow the speed and direction of change in new construction. Historic district controls that are merely aesthetic in nature, trying to recapture the look of the buildings as originally constructed, have not worked by themselves. The residents must be involved and concerned about the rate of change. They are an important element for a continued social and economic viability of a neighborhood.

It is out of the background and framework, presented in this chapter, that the legal and economic mechanisms for historic districts and preservation will be discussed.

Federal Legislation



CHAPTER III

CHARACTERISTICS OF HISTORIC DISTRICTS

An Exploration of Historic Districts

Historic districts are hard to describe but this chapter will attempt to do just that. It will give a background of historic districts, criteria for historic district acknowledgement and development, how they survived, an analysis of aesthetics in historic districts, description of ways to determine boundaries, and it will give reasons why people should live in historic districts.

Background of Historic Districts

There are many different environments in which historic districts are located. They range from villages and their surroundings to areas within large cities. Over the years the types of historic districts have been expanding along with the growing recognition that historic districts are an important aspect of our culture. Historic districts have a variety of uses from residential, to commercial, to industrial or some combination of these uses. All levels of government have had an interest in historic districts; federal, state and local. "At the federal level the 1935 Historic Sites Act, which allows for the designation of historic districts as National Historic Landmarks, provided the initial impetus. More recently, historic

districts have been entered in the National Register of Historic Places as defined in the 1966 National Historic Preservation Act."⁵⁵ In more than 25 states, legislatures have passed the enabling legislation for local governments to establish historic districts and historic district ordinances. The local governments have established historic districts from the state enabling legislation or from the general zoning power.

It is important to explain the difference in status between the National Register historic districts and ones established by municipal ordinances or state statute. The historic district designated to the National Register of Historic Places is considered of national significance. The protection that accompanies such a designation specifies that any project in the district involving federal funds or a federal license must be reviewed by the Secretary of the Interior to make sure the historic district is not harmed. There are two types of historic districts that originate from state legislation. One is the designation of an area as a historic district with no protection. The second type is the historic district ordinance, which vary in protection, but generally regulate demolition, exterior alteration, and construction of new buildings undertaken by individuals, corporations, and governmental agencies. Some states create such district ordinances through the state legislature (like Vieux Carre in New Orleans) or give the power to the local governments under police powers to create their own. On the local level, governments can create historic districts ordinances from state enabling legislation

or symbolically designate a historic district as locally significant with no protection. The latter is a token designation.

What is a Historic District?

Webster's Unabridged defines a district as "territorial division marked off or defined for administrative, electoral, judicial, or other purposes." A district is made up of many buildings, some more significant than others, but placed into a unit whose individual units define the space. This space is reinforced by smaller parts which create the texture and quality of the space. These parts are trees, signs, shrubs, flowers, lighting, paving, etc. It is the combination of all the parts which creates the distinction of one district from another. These distinctions form neighborhoods, create a definable character quality, and give a sense of locality. These are real and perceptible!

Districts can be distinguished by their boundaries, the style and the design of buildings, the material used, the spatial relationships, and quality of the spaces. In districts there is a hierarchy of elements that create the whole. From pivotal buildings, to lesser important buildings which create a linkage. This linkage of elements or parts is what distinguishes a district from isolated individual landmarks. A time and place is created by all the parts in which the sum of the parts exceeds in value any one of the individual parts. At the same time, a district may not contain a structure of unusual significance in itself, but the area as a whole may present a character which is refreshing and a welcome contrast to the monotony of present day construction.

In his book Image of the City, Lynch describes districts as "structured with nodes, defined by edges, penetrated by paths, and sprinkled with landmarks. Elements regularly overlap and pierce one another."⁵⁶ Lynch has done studies in large cities trying to discover how people perceive districts. He looks at them as relatively large areas in cities where one can "mentally go inside of and which have some common character."⁵⁷ One recognizes them as one goes by them, towards them, and also while inside one.

In Lynch's study of Boston, people saw the districts as the basic elements of the city's image. (These districts were not necessarily defined as historic.) Even if the districts were not used for orientation, they did make up a part of city life which was made more satisfying and important. The more familiar a person was with Boston, the more real districts were to them. People identified districts by their physical characteristics. As Lynch says:

The physical characteristics that determine districts are thematic continuities which may consist of an endless variety of components: texture, space, form, detail, symbol, building type, activity, inhabitants, degree of maintenance, topo In a clearly built city such as Boston, homogeneities of facade--material, modeling, ornament, color, skyline, especially fenestration--were all basic in identifying major districts.⁵⁸

Beacon Hill, a historic district, has an image which was described as: "steep narrow streets; old brick row houses of intimate scale; inset, highly maintained, white doorways; black trim; cobblestones and brick walks; quiet, and upper-class pedestrians."⁵⁹ Lynch describes historic districts as different from regular districts by not being "shapeless and sprawling." They are very unique and

descriptive areas which have a very strong character and historical association.

Reasons for Establishing Historic District Ordinances

There are many reasons for establishing historic districts. The National Trust for Historic Preservation did a survey of 20 historic districts called, A Guide to Delineating Edges of Historic Districts. In this study they listed six reasons for establishing historic districts and the different reasons why specific districts were established. Part of that report follows:

Primarily to protect what was there of architectural, historical, social, or cultural value (Charleston, Vieux Carre', San Juan, Beacon Hill, College Hill, Wethersfield, Harrisville, Annapolis, Georgetown, Galveston, Lafayette Square, and Heritage Hill).

Attempt to control or prohibit new development, either proposed or in the future (Santa Fe and San Xavier).

Attempt to control or prohibit specific threat, such as urban renewal, highway, or large developments (Jacksonville, Pioneer Square, and Pullman).

Attempt to create a district as a development incentive by setting controls, protecting property values, and so forth (Part of Lafayette Square, St. Louis).

As a public relations project to gain recognition for the area (Wethersfield, College Hill).

Other, such as utility financing, protect view of site or from site (Elsah).⁶⁰

There are also some broader reasons why people want to establish districts. One is community pride. A group of citizens can rally around the common cause of a historic district and have pride in maintenance and community renewal of an area. A well regulated historic district will try to keep out the plastic "phony colony"

fakery in historic buildings and establish an environmental integrity. It will also try to stop inappropriate remodeling and inconsistency of design in the framework of a historic district. But, one does not want to kill the progress and vitality of a historic district. Design criteria can be set up while establishing a historic district so that new buildings built within the district are sited and designed with sensitivity which should keep out the "fake" historic structures. Historic districts are not meant to be Disneyland.

Change to the existing historic structures can be controlled. When too much change occurs in a district, it decreases in value through a loss of character and sense of place. People can be educated to the fact that there are other ways to restoring property than by "modernizing." As mentioned before, property values often accrue when historic districts are established. The residents not only benefit, but so does the community with an increased tax base. A quality area of consistent and reliable residential or commercial character attracts people to live and establish businesses. Businesses can at times benefit from tourism in some districts, but beyond that, if a neighborhood is created with established residents, the commercial interests are going to benefit and new business will be attracted. Then new business and even new residents can move into the area to restore and adaptively re-use the existing framework of buildings.

Besides the primary consideration of preserving historical architecture, a district can pull together people and agencies. Cooperation between city governments, historical societies,

individuals, and citizen organizations can establish a social fabric as well as a physical, historical, and architectural framework.

Problems with Historic Districts

The problems with historic districts begins with trying to establish them and continues as ordinance and standards are developed for a review process. Physical erosion within an established district is also a problem. It takes time to establish a historic district, that alone is a problem when one is working in a crisis situation as so many preservationists do. Our industrialized society moves too fast to protect our cultural and historical heritage from every harm.

The public has an interest in both conservation and modernization despite the unresolvable conflict between the two; some balance has to be reached. The growth and popularity of historic districts suggests that many people find living in them very desirable even with the needed controls. What criteria and standards can be developed to keep the historical character while permitting people to make old structures livable according to present day standards?

Guidelines are difficult to draw up, at the same time they are crucial. They change with each particular area and for a historic district with a variety of building styles. Guidelines may be needed for separate areas within a district. The guidelines should be more than "compatible" and "harmonious" with the existing structures' character. These words are vague and do not give one anything specific to base design decisions on. The criteria for development will be covered in greater detail later, for now it is enough to know they are a problem.

A major problem has been that historic district ordinances have been too weak! A historic district ordinance should give the preservation commission enough authority to be effective, but not constricting. The preservation commission should have decision making authority and not just make recommendations. They must have authority to stop demolition of buildings instead of merely postponing the demolition.

In many cities it is difficult to identify the degree of jeopardy to which important historic areas are exposed. Support can change with the shifting circumstances of popular attitudes and political administrations. Two examples are Vieux Carre' in New Orleans and Savannah, Georgia. Both have been in serious trouble because neither community has found an adequate way of integrating history and its architecture with solutions to the problems in the central city.

Savannah is a unique city with a town plan comprised of twenty-one squares and trust lots which create a special street pattern. This street pattern provides the city with open spaces which are often taken for granted. Many people in Savannah would rather see the open spaces and trust lots as parking lots so they would always have a place to park their cars. Savannah has no historic zoning ordinance and so buildings are being lost. The Historic Savannah Foundation has established a revolving fund to acquire and restore buildings. But they have no plan, only a survey. So the situation is very fluid and unstable.

New Orleans is quite a different situation. Despite an ordinance and an excellent job by the Vieux Carre' Commission, pressures from the rapidly growing downtown business area have created a similar problem to that in Savannah. Buildings have been lost, particularly at the edges of the district and heavy traffic through the area has changed the quality and character of the spaces.

The erosion in historic districts is one of the major problems facing them. The character and quality of an area erodes in direct proportion to the increasing number of nonconforming intrusions that change the sense of place. The destruction of one structure in a row of buildings changes the spatial relationship to the streetscape. The placement of new buildings out of scale, proportion, materials, texture, color, etc. with the existing structures in the area will have a detrimental effect. Also, within a district the types of residents that live there might change. More young families with children could move into the area requiring more schools and playgrounds. Immediate surroundings around a historic district can change and put different types of demands on a historic district. Examples are creation of more through traffic streets, industries being put in, more people through tourism, etc. How can a historic district survive such pressures?

Even though new buildings and functions cause difficulties, this is not to say that they do not have a place in historic districts. But the design problems of integrating new buildings and functions have never been addressed on a large scale in this country.

It is a problem that has to deal with all aspects of a historic district from legal to aesthetic and is quite complicated.

Historic districts and special historic zones are an attempt by the government to regulate the use of and prevent alteration to historic and architecturally significant properties. The criticism of such governmental attempts is that it tends to preserve a historic property as long as its owner has no desire to change its use or alter its appearance.

When an action is initiated by the property owner, a legal conflict usually results and it becomes a matter for the courts to determine whether or not the restriction imposed by the historic district ordinance constitutes an unjust taking of the owner's rights without just compensation. If the courts held such to be the case, the government must find the resources to acquire the property, or at least the necessary rights in the property, to assure its preservation. This means that a group has to be very flexible and able to move very quickly in preserving an area. The courts have been deciding in favor of historic district ordinances, making them more effective, but at times the courts decide against and that is a problem.

Criteria for Historic District Acknowledgment

There are general aesthetic criteria that apply to districts in choosing them for recognition. A district is a collection of buildings, which form a framework of spaces, where other objects can be placed and the combination can have "integrity of location, design,

setting, materials, workmanship, feeling, and association."⁶¹ These relationships make districts unique or different rather than bland.

Buildings are linked together in such a way that their location creates a sense of place. Through their height, proportions, colors, materials, textures, and scale they radiate a feeling of being inseparable. One structure being taken away changes the character of the surrounding area. They are an integration of the man-made environment and the natural environments using both to delineate their boundaries/edges. They can represent a period of architecture or several periods, but through their workmanship and materials they convey a sense of homogeneity.

The feeling of a historic district is attributable to the abstract aesthetic conditions already talked about. It also can be attributed to an awareness of the political and social history of the people who have worked and lived in the district's buildings and surrounding area. There is something about the maturing of an area over the years, with as little disruption as possible, that creates a positive feeling. A feeling that penetrates the human consciousness with a longing for history and a sense of place.

Historic Districts and Their Survival in Cities

Buildings, like people, if they are to meaningfully survive, must do so within the total context of a community. There is an organic relationship that through the travails of the decades and of the centuries has developed in certain towns.⁶²

Over the years a district can develop a sense of place which people desire to live in. A sense of place is created by buildings of different periods, dedicated to different functions and reflecting

different levels of affluence all united together. If we are concerned with only individual buildings "they may be artificial, theatrical, unrelated to everyday life--a curiosity, a place that one visits, but one that has lost the power of belonging through its interconnections."⁶³ A district is much more complicated and has more problems to overcome for survival than individual buildings.

A solution which suggests exact choices and commitments on economic and political levels is called the urbanistic solution.⁶⁴ This urbanistic solution has a basic principle of moving business areas outside the perimeters of historic districts. These areas are to be set aside for peaceful activities. The urbanistic solution applies to historic districts with too much business and growth pressure which takes away from the historic character of the area. Through intervention, this could be accomplished and must be for the following reasons. First, the damage that uncontrolled traffic does to the character of the area and the foundations of old buildings. Traffic damage can reduce and even eliminate the primary motive for the conservation of an area. Secondly, historic centers are not adaptable to growth pressures of high volume businesses.

The urbanistic solution does not try to kill an area by not using it, but tries to stop indiscriminate exploitation of historic districts. Historic districts have to be removed from the speculative market to a conservation market. Then people that move into the area can realize they have bought a stable piece of time. Two barriers to overcome are the higher land prices in urban centers and the acceptance of controlled economic growth in certain areas of our

cities. Some towns that were passed by urban growth and have a past worth protecting, now have growth pressures because of their historic framework. These towns must consider how they are going to grow. Many National Parks are having the same growth problems and too many people are destroying the environment. Their solution has been to limit the number of users. Can cities use this solution? I think not.

Aesthetics in Historic Districts

When the subject of aesthetics and historic districts is discussed, the question arises whether one should copy or blend new development. The problem of integrity is critical when new construction is slated for a historic district. If an area does not have a historic district ordinance, then a new building can be any size, color, height, intervals, etc. The only limitation would be existing zoning. Controls are needed to be sure that the characteristics which create a district's wholeness are advanced rather than lessened by new construction.

The attempt to create uniformity through copying has been tried in many historic districts. Buildings which copy the older styles are increasingly difficult to recreate and finding people to do the work is even more difficult. But the main issue of such attempts is the triteness. To try to copy styles is ridiculous.

The best approach is to blend new construction with the older existing buildings. The blend can be achieved through making the new designs conform with the older buildings in terms of their features. Standards should be set up to guide the architectural review boards

of historic districts to determine if proposed building will fit in with the existing character. These guidelines or standards should not be narrow, but progressive. Standards should be for existing older structures, but at the same time relate to new buildings. The older units should not be stripped of their character of age and modern elements applied insensitively.

Criteria for Development in a Historic District

What standards should be used to regulate new construction and restoration of existing buildings? This question is very hard to answer since specific standards have to be modeled for individual historic districts. Aesthetic judgements within districts are made in connection with the historic commission's power to grant or deny requests to construct, reconstruct, alter, or demolish a landmark or portion of the district. The commission needs standards to make sure their judgements are not arbitrary and the designer needs standards as a basis for design decisions.

The decentralized and individualistic pattern of historic preservation in the United States has resulted in widely varying standards. These standards are often weak and nebulous. A plan prepared for Savannah, Georgia shows how a system might work. Sixteen exterior aspects of a building are given for comparison with neighboring buildings. Each aspect is analyzed so one can measure the degree to which buildings relate to each other. New structures have to meet at least six of the points with neighboring buildings.

1. Height - This is a mandatory criteria that new buildings be constructed to a height within 10 percent of the average height of existing adjacent buildings.

2. Proportion of buildings' front facades - The relationship between the width and height of the front elevation of the building.
3. Proportion of openings within the facade - The relationship of width to height of windows and doors.
4. Rhythm of solids to voids in front facade - Rhythm being an ordered recurrent alternation of strong and weak elements. Moving by an individual building, one experiences a rhythm of masses to openings.
5. Rhythm of spacing of buildings on streets - Moving past a sequence of buildings, one experiences a rhythm of recurrent building masses to spaces between them.
6. Rhythm of entrance and/or porch projections - The relationships of entrances to sidewalks. Moving past a sequence of structures, one experiences a rhythm of entrances or porch projections at an intimate scale.
7. Relationship of materials - Within an area, the predominant material may be brick, stone, stucco, wood siding, or other material.
8. Relationship of textures - The predominant texture may be smooth (stucco) or rough (brick with tooled joints) or horizontal wood siding, or other textures.
9. Relationship of color - The predominant color may be that of a natural material or a painted one, or a patina colored by time. Accent or blending colors of trim is also a factor.
10. Relationship of architectural details - Details may include cornices, lintel, arches, quoins, balustrades, wrought iron work, chimneys, etc.
11. Relationship of roof shapes - The majority of buildings may have gable, mansard, hip, flat roofs, or others.
12. Walls of continuity - Physical ingredients such as brick walls, wrought iron fences, evergreen landscape masses, building facades, or a combination of these, form continuous, cohesive walls of enclosure along the street.
13. Relationship of landscaping - There may be a predominance of a particular quality and quantity of landscaping. The concern here is more with mass and continuity.
14. Ground cover - There may be a predominance in the use of brick pavers, cobble stones, granite blocks, tabby, or other materials.
15. Scale - Scale is created by the size of units of construction and architectural detail which relate to the size of man. Scale is also determined by building mass and how it relates to open space. The predominant element of scale may be brick or stone units, windows or door openings, porches and balconies, etc.
16. Directional expression of front elevation - Structural shape, placement of openings, and architectural details may give a predominantly vertical, horizontal, or a nondirectional character to the building's front facade.⁶⁵

Unfortunately, when the Savannah Plan was finally adopted the criteria were made merely advisory. The commission is not bound to consider any or all of the criteria and can reject a project even if they meet all the criteria and is a good design. The most ambiguous part of their plan is its failure to identify the buildings which are the basis for the criteria. The Savannah Plan has another weakness. It does not address the question of signage within a historic district. Signs can destroy a district's character if not regulated. They can contribute to the district if sensitively designed and appropriately placed within the district.

The redeeming factor of the Savannah Plan is its focus on specific and at the same time widely varying architectural details that are important in giving a sense of visual harmony. The plan also allows for a minimum level of uniformity. This allows flexibility and variety. But, how many points of relatedness are needed for a building to be appropriate? The dichotomy of too few constraints and one loses cohesiveness, or too many requirements could lead to that sterile monotony associated with tract suburbs. The correct level comes to an aesthetic judgment. A minimum amount of standards should be set as something on which to base judgements.

A goal of standards should not be to replicate the existing setting with the present district. An historic district is not like many other areas of the environment. It has not become a hodgepodge of building sizes, styles, improvements and shapes. It should be remembered that guidelines are difficult to write, crucial, and will

vary with each area. This is the first step in solving the problem of development criteria for historic districts.

Determining the Boundaries of Historic Districts

It is important to study the different factors which determine the boundaries of historic districts. The edges of districts are where districts are usually slowly eroded away. Edges are also important so people can determine where boundaries are when a new district is being created.

According to a study done by the National Trust to determine the boundaries of potential districts there should be a two phase inventory. The first phase is especially important if no inventory has been done of an area. It is an initial spot check to determine areas of important structures. It should include:

Major natural features that contribute to the identity of an area - topography, land forms, geological sites, watercourses, marshlands, open spaces and conservation areas.

Buildings, structures, sites or objects of architectural, historical, archaeological, or cultural value.

Linear rows, groupings and concentrations of buildings and the spaces between which, while perhaps of marginal importance individually, collectively contribute to the visual character or sense of place of an area.

Areas of entire neighborhoods that because of social or ethnic features, or of a visual continuity from town planning or landscaping elements, exhibit a uniqueness and special character.

Major items of townscape, including important vistas, and panoramic views, a similarity of building forms, materials, scale or height, street and sidewalk paving materials and street furniture.⁶⁶

A study done on the College Hill District, Providence, Rhode Island, discovered that the initial inventory should be done on the

whole community. Surveying only one area has a negative effect on future efforts to start preservation projects in other areas of the community. All potential historic districts should be pointed out.

The second phase would start after potential historic districts have been identified. This phase will start to define the boundaries of the historic districts. The areas should be thoroughly researched and visually surveyed for the following factors: natural features, archaeological sites, existing street and highway plans, architectural sites, landscape designs, and historic and cultural sites.⁶⁷ The above information then is mapped to show the visual and historic factors that should be considered in figuring out the edges of the historic districts.

The above was a quick analysis of boundary determination. To explain it more thoroughly the National Trust study: A Guide to Delineating Edges of Historic Districts, will be discussed in more detail. The study discusses the common elements used in delineating the boundaries of twenty historic districts. These elements are broken up into historic factors; visual factors; physical factors; surveyed lines and lines of convenience; and political, economic, and social factors.

There are two historic factors which are used: first, the boundaries of the initial community, and second, the existing concentrations of existing older buildings. Historic district boundaries based on an original settlement pattern can be researched and are easily understood and enforceable because they are very believable. Using concentrations of older buildings as boundary determinants can

at times be ambiguous because newer buildings are intermingled. These edges can be visually unclear and hard to comprehend at times. The strategy here would be to include all styles of buildings and not just the oldest buildings.

The next type of element are visual factors. These include: "Edges determined as influenced by architectural survey. Edges based on topographic considerations. Edges drawn to include gateways, entrances and vistas to and from a district. Edges related to other changes in visual character of an area."⁶⁸ These are usually fairly obvious boundaries. Points that should be remembered are: enough room should be allowed for a buffer between the edge and the true start of the district as protection; it is preferable to draw boundaries to include both sides of a street; and finally, nonhistoric but visually essential views could enhance a district and should be included where relevant.

Physical factors are the most obvious edges or boundaries. Such elements as major open spaces, railroads, highways, rivers, marshlands, walls, fence lines, a major change in land use and the limits to a settled area are "natural edges." These boundaries are psychologically and visually as well as physical barriers. They are obvious to the passer-by because the character of the space changes at the edge abruptly.⁶⁹

Surveyed lines and lines of convenience are the most arbitrary type of boundary lines because they do not consider visual appearance, character or history. These include streets and rights of ways, property lines, legal boundary lines and arbitrarily set lines of

convenience. Lines of convenience are set in a "rounding off" process. Two examples are the connecting of two points determined by other boundary factors and a pre-set size of the historic district (6 square blocks). Often lines of convenience are not logical, but expedient. So buildings worth saving are excluded from the district.⁷⁰

The last type of element are the political, economic, and social factors. Political considerations stem from opposition to proposed districts so compromises have to be made. These oppositions come from the government institutions, private citizens and property owners who have a project or property in the proposed district and do not want the regulations that would come with a historic district ordinance. The different socioeconomic levels of residents in a proposed district have been known to influence boundary locations. Rationale behind this has been in two directions. First, the ability of present residents to pay for restoration, anticipated additional property taxes and to otherwise adapt to district regulations. The second rationale is districts have been drawn around existing reputable neighborhoods who want to use the district for complete control without outside intervention. Using socioeconomic factors for boundaries causes many problems. They are hard to identify with and have an inconsistent coverage.⁷¹

Why Live In A Historic District?

There are many reasons why people are attracted to living in historic districts. People are attracted to the unusual character and the older integrity of the architecture. Some think it is prestigious to live in a historic area. Compared to the suburbs,

there is a finer sense of human scale and the adventure of and silent invitation to restore a run-down structure attracts many. The new interest in our environment has made people interested in American history and culture. There is a growing value placed on antiques in our culture and historic structures are becoming a part of that value. There are only so many authentic historic structures so the value put on them is growing. Lastly, there is a greater value received for one's money in obtaining shelter in terms of area and quality of construction from the older historic structures.⁷²

CHAPTER IV

LEGAL MECHANISMS OF PRESERVATION

This chapter addresses two different areas of preservation law. First, the theory and legal background of preservation law. Secondly, the private and governmental powers and existing laws which can be used as legal mechanisms to achieve preservation.

The theory and legal background section discusses property rights; the courts interpretations of private property regulation for the public welfare; the legal background for preservation law; bases of attacks on preservation law; the taking issue; public trust as a new concept; and preservation legal powers. The second part of the chapter describes such private preservation land use controls as easements, development rights, and covenants. Then governmental powers as they pertain to preservation are described. They are eminent domain, different aspects of police power, and taxation.

Property Rights

The distinction between the preservation of buildings and moveable objects such as art, is that buildings are bound to a piece of land. With that piece of land comes costs and benefit of location, unlike moveable objects. When preserving historic structures, the property rights of land are important. Property rights by their

nature are dynamic and constantly changing. Thus far there have been three stages of property rights. First, the feudal system with the king owning and dictating what should happen to the land. Next, the laissez-faire era from 1750 to 1850 when private property rights had little government controls. The property owner had little restrictions on him as to the use of his land. Lastly, the increasing assertion of public rights in relation to the land.

The increasing pressures for a larger role by government in the regulation of property rights is covered by a number of factors. The shrinking natural resource base has aroused a concern for the future supply of natural resources and their availability in the future. People are more broadly and highly educated so they are more aware of our environmental problems. This broadened educational base is also responsible for people being aware of the wider suffering in the world. An increasing population is increasingly putting pressure on how we use our land. Our economic growth is also increasing so there is more pressure for governmental control. Lastly, rising real incomes has given people money to spend on land, increasing its value tremendously over the years. Some characteristics of property rights are:

- (1) Rights spring from society
- (2) Property is a dynamic concept
- (3) Subtraction from fee simple do not necessarily mean less value or fewer satisfactions
- (4) Natural objectives call for continued private ownership of property
- (5) Sentiment is moving toward acceptance of a stewardship and public trust review
- (6) Public sharing lend to the loss of valuable rights
- (7) Proposed adjustments should be carefully studied.⁷³

There are two areas that land use controls can be classified into, private and public. Private land use controls involve acquiring property.

This means that a right must be purchased from the "owner" of the property over which some control is sought. The degree of control acquired will vary with the right in the land which is bought. The most obvious private land use control is the outright purchase of property. The common law has also established a set of procedures enabling one party to purchase some lesser right in a piece of property owned by another. These rights can mean that it is possible to buy a restriction on an owner's use of his historic property. Similarly, one could acquire a restriction on the owner's right to alter any specific aspects of its design.⁷⁴

In public land use controls the government can act similar to an individual in getting property rights. The government also has unique powers that can be imposed to preserve historic buildings and areas.

Some of these powers give the government the ability to encourage the preservation of buildings in unique ways, and some give them the power to require the preservation of historic property. The traditional sources of governmental power have been classifiable in four great areas: the war power, eminent domain, police power, and the power to tax. The last three are applicable in historic preservation.⁷⁵

The government powers of eminent domain, police power, and the power to tax will be discussed later in the chapter. For now it is important to remember that property rights are dynamic and do change with the court's interpretation. The following is a history of preservation related concepts and judicial decisions to show this change.

Court Approval of Regulating Private Property
for the Public Welfare

As Jacob H. Morrison says in Historic Preservation Law,

From a legal standpoint, the preservation of public buildings, landmarks and sites presents no great difficulty. The main problems . . . are to take affirmative steps to collect, reuse and guard these public treasures, to finance their maintenance and to make them available for the education and enjoyment of the public.⁷⁶

The preservation of historic private property is more a problem than just private property. There are two methods for preserving historic private property for the public good.

- (1) the power of eminent domain, that is, the acquisition of private property for public use by payment of just compensation and,
- (2) the police power, or the enforcement of regulations for the public good affecting privately owned property without payment of compensation.⁷⁷

It has been suggested from a legal standpoint that the best way to preserve historic buildings would be to bring them under the power of eminent domain. The problems with this concept is that people would be taken from their viable historic areas and the areas would be left for the government to dictate and control. The expense would also be prohibitive. The government would reduce the historic areas to amorphous museums, taking from the public the rich experience of historic continuity. The options that are left are to educate the private owners to the treasures they possess and to safeguard the historic structures by appropriate regulations under the police power.

The proper exercise of police power--regulations without compensation--is the subject of a line of important decisions by the courts. They have sought to define, limit, and apply the police power in the field of control by states and municipalities of nonpublic antiquities and landmarks which are of historic interest and traditional importance.⁷⁸

Private property under the laissez-faire attitude has long been considered controllable only under the criteria of public health, safety or welfare. Historical property regulations and controls were considered as a matter of aesthetics, that is all ". . . its preservation was to secure a triumph of pleasure and perhaps beauty but it was not a matter of necessity affecting the health or safety or welfare of the common weal."⁷⁹

The first ordinance adapted for preservation purposes in the United States was in Newton, Massachusetts in 1872. It was ruled unconstitutional by the Massachusetts Supreme Court five years later (City of Newton v. Belger, 10 N.E. 464, 1877). Another early attempt to "maintain the character of buildings in an area" was the enactment by the City of Baltimore in 1898 of an ordinance that prohibited the tearing down of any old building or increasing its height without a permit from the city. This was also thrown out in 1902 by the Maryland Supreme Court (Bostoch v. Sam, 52 AH. 665). They ruled that it was not within the city's police power to impose such a ruling. Most of the provisions of this ordinance are contained in many of the currently used ordinances in the United States.⁸⁰

The first glimmer of hope for preservation came in a case decided by the United States Supreme Court in 1909 (Welch v. Swasey, 214 U.S. 91, 52 L.Ed. 923, 29 S. Ct. 567, 1907). This court decision upheld Massachusetts acts of 1904 and 1905 regulating the height of buildings in Boston in order to protect the character of historic areas. The Court upheld the acts because public "safety" was involved. They reasoned that high buildings might constitute a fire hazard. It

was generally recognized that urban beautification was the prime consideration. This decision was cited many times over the years in similar cases.

The United States Supreme Court sustained the constitutionality of both statutes reasoning they did not violate the 14th Amendment of the United States Constitution. The two statutes were considered reasonable under the public health and safety criteria. There is no doubt that *Welch v. Swasey* established a judicial pattern of circumvention and evasion where regulations based on aesthetic considerations were concerned.

American tribunals long ago recognized that beauty, harmony and symmetry were valuable adjuncts to the public welfare. But they also knew that the public entertained a somewhat narrow and materialistic view of the police power as something that merely protected their properties from trespass, their bodies from mayhem and disease and their noses from offensive smells. To the populace at large the preservation of things that were just pleasant and sights that were simply beautiful seemed to have no affinity with that solemn and awesome prerogative of government, the police power. As a consequence, to justify their decisions upholding property regulations under the police power, the courts felt compelled to look for other reasons to support their decisions than such a positive one as the maintenance of historic integrity and the charm of antiquity in buildings and sites. So they hit upon the negative approach, namely, that building regulations and zoning regulations were designed, not to promote and preserve aesthetic values, but to protect the health and wealth of the citizenry.⁸¹

It was not until the Supreme Court of Florida handed down its decision in *Merritt v. Peters* et al. in 1953 (65 So. 2nd 861), that any court held outright that aesthetic consideration stood alone under the police power. In this decision, the *Welch* case was cleverly passed and public welfare was recognized, distinguishing it from public health and safety. As the decision reads:

We have no hesitancy in agreeing with him (Appellant) that the factors of health, safety and morals are not involved in restricting the proportions of a sign board, but we disagree with him in his position that the restriction cannot be sustained on aesthetic grounds alone. In City of Miami Beach v. Ocean and Inland Co. 147 Fla. 480, 3 So. 2d 364, we think we decided that point contrary to the appellant's view. We held in that case that attractiveness of a community like Miami Beach was of prime concern to the whole people and therefore affected the welfare of all. We think the principle applies to the territory across the bay where the appellant's property is situated. All in the area are regulated alike in the use of their property in constructing signs; all will profit if all obey; all will suffer if none is restricted. We must hold that although safety, morals and health of the general public in the territory do not demand the restriction, the general welfare does and that the chancellor (the lower court) ruled quite correctly when he dismissed the bill of complaint seeking to restrict enforcement of the regulation on the ground that it was a violation⁸² of the plaintiff's constitutional rights (Emphasis supplied).

Another case Berman v. Parker (348 U.S. 26, 99 L Ed. 27, 75 Sup. Ct. 98) decided in 1909 stated that cities had the right to be beautiful. In the opinion it was stated:

The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled If those who govern the District of Columbia decide that the Nation's capital should be beautiful as well as sanitary, there is nothing in the 5th amendment that stands in the way.⁸³

In the case of Berman v. Parker the United States Supreme Court reviewed the District of Columbia Redevelopment Act of 1945. The appellants of the case were the owners of property with an unused department store on it. The federal government was going to take it under the power of eminent domain. (The 5th Amendment of the United States Constitution gives the federal government this power the same way the 14th Amendment gives the states the right of eminent domain.) The federal government was going to redevelop the land. They were

going to acquire the land, bulldoze the buildings and sell the land to developers. These developers could be former owners who wished to repurchase the property. In upholding the federal government the U.S. Supreme Court was considering the power of eminent domain, which required the payment of just compensation, instead of police power. It brought out the doctrine of public welfare a much different interpretation than the public health and safety criteria once used.

An important practical application was brought out in the Merritt case. That was the 1926 decision of the United States Supreme Court in Village of Euclid v. Ambler Realty Company (272 U.S. 365, 47 Sup. Ct. 114, 71 L.Ed. 303). The highest court upheld the concept of zoning as constitutional and described what they felt would be the future evolution of zoning.

. . . . Building zone laws are of modern origin. They began in this country about 25 years ago. Until recent years, urban life was comparatively simple; but, with the great increase and concentration of population, problems have developed, and constantly are developing, which require, and will continue to require, additional restrictions in respect of the use and occupation of private lands in urban communities. Regulations, the wisdom, necessity, and validity of which, as applied to existing conditions, are so apparent that they are now uniformly sustained, a century ago, or even half a century ago, probably would have been rejected as arbitrary and oppressive. Such regulations are sustained, under the complex conditions of our day, for reasons analogous to those which justify traffic regulations, which, before the advent of automobiles and rapid transit street railways, would have been condemned as fatally arbitrary and unreasonable. And in this there is no inconsistency for while the meaning of constitutional guarantees never varies, the scope of their application must expand or contract to meet the new and different conditions which are constantly coming within the field of their operation. In a changing world it is impossible that it should be otherwise. But although a degree of elasticity is thus imparted, not to the meaning, but to the application of constitutional principles, statutes and ordinances, which after giving due weight to the new conditions, are found clearly not to conform to the Constitution, of course, must fall⁸⁴

The discussion until this time has attempted to show the change and growth of the courts in expanding police power so as to include laws based on aesthetic values and to give government more authority to preserve historic buildings and areas for the public welfare. The discussion was stopped with Berman v. Parker because of its precedent setting decisions and cases that followed dealt with zoning and related questions such as billboard regulations. These in themselves are topics of their own. But for the purposes of this thesis, the next section will try to focus on the legal background for preservation law.

Legal Background for Preservation Law

The origins of preservation law came from Massachusetts. This state was in the forefront of passing laws to preserve historic areas. The preservationist of this state were trying to get some kind of conformance of symmetry and appearance with their historical and architecture venacular. As mentioned in the section before in the City of Newton v. Belger (10 N.E. 464, 1887) the court invalidated the town ordinance "which required that no person shall erect, rebuild, or essentially change any building for any purpose other than a dwelling house without first obtaining a written permit from the Board of Aldermen."⁸⁵

As also mentioned before in 1904 and 1905 acts governing height limitations in Boston were passed and upheld in 1909 by the United States Supreme Court in the case of Welch v. Swassey (214 U.S. 91, 53 L.Ed. 923, 29 Sup. Ct. 567). The court decision was one that said even though the city would benefit aesthetically from the

acts it also was carried out to promote the health and safety of the citizens. It was acceptable on both counts.

In a number of cases the Louisiana Courts upheld the validity of the New Orleans Historic Zoning Ordinance, another form of police power. First, in the City of New Orleans v. Impastato (198 La. 206, 3 So. 2d 559, 1941) the court upheld the historic district ordinance and it has had a far reaching effect and importance in the enforcement of preservation ordinances. The exterior regulation of the building was questioned in this case and the court upheld that such a regulation was constitutional. A decision handed down by the Louisiana Supreme Court in 1941 was important to the legal maintenance of the integrity of a historic district. In this case the City of New Orleans v. Pergament (198 La. 852, 5 So. 2d 129) it was stated that "the power to regulate or restrict in a given area of historic importance applies to all buildings in it though various individual buildings are not themselves of historic or architectural importance. Accordingly, Pergament who operated a modern filling station in the old French Quarter was made to comply with those portions of the Vieux Carre ordinance regulating the size and type of signs permitted in that section."⁸⁶

The power to regulate all buildings included in a district was given the name of "tout ensemble" or all together doctrine.

A third case ruled in favor of the constitutionality of the Vieux Carre Ordinance. This case was City of New Orleans v. Dan Levy (64 So. 2d 798) and was decided in 1953. The decision affirmed the two previous cases and then built its opinion around the public

welfare doctrine while discussing districts in terms of commercial value. It implied that maybe aesthetics were not enough, and that commercial value was a valid reason for preserving an area under police power.

These are not all the court cases related to historic preservation of areas, but are the bases of many others. An example is a recent ordinance that was upheld in California, Bohannon v. City of San Diego (30 Cal. 3d. 416, 106 Cal. Reprtr. 333 (1973)). The California Court of Appeal held that the purpose of the state historic district enabling act fell within the meaning of the "general welfare" and was therefore a valid exercise of the police power. Most historic ordinances try to preempt the argument that zoning is based on aesthetics alone by introducing statements saying that the ordinance has been developed to promote the general welfare of the community. Slowly the courts are coming around to uphold legislation to preserve historic structures and to prevent the destruction of the architectural and historic built environment.

Bases of Attacks on Historic Preservation Law

Those who disagree with regulations created to protect historic buildings and areas have one main contention already mentioned. The regulations are based on aesthetic motives and so go beyond the realm of police power. Besides this one general standard disagreement there are three main areas of attacks.

These are (1) that they are generally lacking in definite specifications and appropriate standards; (2) they should not apply to all structures in the area sought to be protected, but only those with actual historic value; and (3) that under the rule of discrimination as exemplified by Yick Wo v. Hopkins

118 U.S. 356, 6 Sup. Ct. 1064, 30 L.Ed. 220, the law may be unconstitutional in its application to specific cases though it meets constitutional requirements in general.⁸⁷

Taken in the above order, first the subject of definitions of standards is very important. But, at the same time it is hard to express in legal terms because they deal with design and appropriateness for buildings and historic areas. Definite standards are needed so administrative authorities can enforce and apply regulations. Under this rule nothing should be left to the "whim or caprice" of the people who administer the law. People who are trying to conform to a rule or regulation must understand what particular design of a building is the standard for conformity.

Under the legal clout it is hard to determine what standards are reasonable in their terminology and sufficiently descriptive. But at the same time standards should not be too explicit to suppress creativity and design. Also over the years the court interpretations of adequate standards have been changing.

Standards that are ruled unreasonable fifty years ago are considered reasonable by today's courts.

The recent problems addressed bring up the question whether all buildings are subject to regulations in historic districts. If a building is not architecturally or historically significant, should it be under the preservation laws that govern significant buildings? The case that set this question straight is the City of New Orleans v. Pergament (198 La. 854, 5 So. 2d 129) in which the court adopted the "tout ensemble" rule. As the court's comments expressed:

And there is nothing arbitrary or discriminating in forbidding the proprietor of a modern building, as well as the proprietor of one of the ancient landmarks, in Vieux Carre to display an unusually large sign upon his premises. The purpose of the ordinance is not only to preserve the old buildings themselves, but to preserve the antiquity of the whole French and Spanish quarter, the tout ensemble, so to speak, by defending this relic against iconoclasm or vandalism. Preventing or prohibiting eyesores in such a locality is within the police power and within the scope of this municipal ordinance. The preservation of the Vieux Carre as it was originally is a benefit to the inhabitants of New Orleans generally, not only for the sentimental value of this show place but for its commercial value as well, because it attracts tourists and conventions to the city, and is in fact a justification for the slogan, America's most interesting city.⁸⁸

This case revealed that an historical area or district was considered an entirety and all the buildings and structures were under the ordinance. Court cases after Pergament used it as a precedent examples are: Berman v. Parker, 348 U.S. 76, and Vieux Carre Property Owners and Associates, Inc. v. City of New Orleans, 167 So. 2d 367 (1964). The basic conclusion from all these cases is that the doctrine of tout ensemble as expressed in Pergament, "means simply that the regulatory body has a right of reasonable control over all buildings in the historic area regardless of the fact that some of them may not be historically or architecturally important."⁸⁹

The third bases of criteria of preservation law is that a law must be "uniform and reasonable in application as well as phraseology."⁹⁰ The roots of this consideration was in the "Chinese Laundry Case," Yick Wo v. Hopkins (118 U.S. 316, 6 Sup. Ct. 1064, 30 L. Ed. 220). This was one of the most important cases of the United States Supreme Court. Its main idea was that even if a law does not look discriminatory on the surface, if it does deny equal protection of the laws under the 19th Amendment in its application, it is unconstitutional.

As the Supreme Court stated:

Though the law itself be fair on its face and impartial in appearance, yet if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution⁹¹

The above decision was written for a case in which Chinese Laundrymen were being discriminated against. Lawyers use the decision to apply to many other types of land regulating laws, including preservation laws.

A problem that comes up here is that a city has the regulation on its side, but when it goes to enforce it, the regulation can be discriminatory. If a city does try to enforce a law that turns out in a certain case to be discriminatory, they cannot enforce it. At times cities feel that decisions by the court "under the facts involved," do not allow them the right to execute historic preservation laws.⁹² Often it is a matter of aesthetics or value judgements which are involved.

The Taking Issue

The taking issue was created as a result of the many people in America who naively believe the United States Constitution allows every person to use their land without regulation. The issue surfaces when the government tries to regulate land use, be it for preservation purposes or not. If only individuals are involved then those that seek preservation pay for it. Under police power the government can exercise laws:

which mean that the owner of an historic property must be forced to bear the costs of preserving it--even if he doesn't entirely want to. Like any zoning restriction, exercise of the police power in pursuit of preservation can restrict the owner's use of his property without his consent and without compensation.⁹³

Other government controls such as eminent domain and taxation require payment by the public at large rather than individuals. For the government, the most economical way to enforce restrictions is through police power.

There is a limit to the power of government in using police power. These limits are a part of our legal system and deciphered by our courts. The courts have over the years been fearful of the uncontrolled use of police power by governments. The courts have attempted to limit those powers to what is interpreted as "reasonable." The Fifth Amendment to the United States Constitution is where the "taking clause" appears. No person under this amendment can be deprived of due process of the law nor can private property be taken without just compensation.⁹⁴

The "taking clause" has a two part history of judicial review. The period before the Civil War when the Supreme Court had very little occasion to consider the issue and the period in the last third of the 19th century when the Supreme Court started to create its own approach to the taking issue.

The early interpretation for taking was based on physical taking and derived from the states. It was held that if no actual physical confiscation occurred or little change, it was not a taking--"no taking, without touching." Reasons that could be given for taking

were the criteria of health, safety, and welfare or, it was a taking unless the government justly compensated for the physical takeover.

After the Civil War the Supreme Court was initially faced with the taking issue and they agreed to the interpretation that physical taking was the reason for compensation under the Fifth Amendment. Also at this time the government was attempting to manage the use of land using the police power. In Mugler v. Kansas (123 U.S. 623, 1887):

Justice Harlan noted that the police power was legitimate as a regulatory power when rationally related to public welfare. If a regulation was not so related, it could not be justified. Eminent Domain, in the other hand, was a literal taking, that is, it affected the individuals title and resulted in governmental use of the property.⁹⁵

The Mugler opinion, established as a constitutional principle that police power controls did not require compensation. If the government action permanently appropriated the owner's property, compensation was required even if the government's reason was to do away with a nuisance.⁹⁶

At the end of the 19th century change was ready to happen in the interpretation of the taking issue. The pinnacle case of Pennsylvania Coal v. Mahon (260 U.S. 393 (1922)) established a precedent. This case tried to set a solid line between compensation and no compensation. If the regulation would go too far it would be considered a taking.

In 1922 the Pennsylvania Coal Company appealed to the Court claiming that they deserved compensation for a law of the State of Pennsylvania which forbid them to mine under cities in some circumstances. The Company had previously sold-off the land, specifically retaining the right to mine it in the deed of sale. Later the company decided to mine some of the land and notified those living on it that when it started to do so the buildings

built on the land would probably collapse. Therefore, the company suggested that the homeowner and user of the buildings vacate In the meantime, however Pennsylvania passed a law for-bidding the company to mine when it would cause such subsidence.⁹⁷

The law forbidding the company to mine was the Kohler Act. The decision was to determine if the act was an exercise in police power (public health, safety and welfare action) or a means for getting the coal company's property without paying. Justice Holmes in his opinion viewed the difference between regulation and taking was degree, not kind. This went against all cases to this point. The question of where to draw the line was left open, because that question had to be answered with the facts of each different case.⁹⁸ Holmes stated further:

The general rule at least is, that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking.⁹⁹

In conclusion, the best way to understand the issue between regulations and taking is to realize that the courts will allow government the right to use police power if what they propose to do is reasonable.

Public Trust: A New Concept

The concept of public trust is a new idea in environmental rights. Today, people are talking about enacting laws which guarantee to every person the right to a decent environment. What this implies is:

that persons have rights simple by virtue of their states as members of the public and that those rights should be phrased in a way to put them on a plane with traditional private property rights.¹⁰⁰

The idea that private property rights do not give a person the right to interfere with a neighbor's rights are a public trust. This concept has two principles: "First, even ones' legitimate activity has spillover effects on the rights of others that limit its scope and nature. And second, the limit of ones' rights is measured by the ability of his own neighbor to make a reasonable productive use of his own property."¹⁰¹

If the courts adopted the public trust concept in a broad way giving the public a right to environmental quality, people could be very effective in coping with the problems of environmental quality. In relation to unique areas or buildings that are irreplaceable, these objects could be viewed as a public trust and protected by the government for all people and environmental quality.

In court cases to date, the question of public trust has popped up related to uniquely old trees and their relationship to the surroundings. There is no reason why unique buildings and districts cannot be perceived as a public trust to be enjoyed by all and not destroyed for a person's hypothetical gain.

Preservation Legal Powers

The legal powers available to preservationists are of two types: private and governmental. There are a number of legal mechanisms within each of these types which a preservationist can use. The actions taken by a private individual or group can only help preservation and not insure it completely. The private sector can buy rights to save buildings while the government can use its powers to preserve a building against the owner's decision. Government can

also encourage preservation by benefiting individuals through these powers, i.e., the power to tax and/or a tax break given to the private owner.¹⁰²

Private Land Use Controls for Preservation

Private land use controls are ones that are written into legal contracts. They may be used by anyone who can go into a contractual agreement. Governmental units may use these types of controls and their other powers which are not available to the private individual.

It is important to realize that private land use controls are based on the concept of rights in property. In the beginning of this chapter the background and characteristics of property rights were discussed and described. When trying to describe ownership in legal terms it is hard to be specific as to what type or how much ownership. Ownership can be the rights of the individual who actually possesses the property. It can also describe someone who does not possess the land, but has the rights to use the land through the rights in the deed. There are many different forms and degrees of ownership and these are known as estates in property.¹⁰³

Many times the rights in property are described as a bundle-of-rights. The whole bundle can be owned by one person and is called "fee simple" or "absolute fee simple." This bundle of rights can also be broken up into different types of rights in which a person may own one stick or a number of sticks (property rights). Examples of the different sticks of rights include life estates, and reversion or remainder rights. These can be explained by the following. A

person can possess and use a piece of land and upon his/her death the right to the land would return to the person who originally gave the life estate or the remainderman assigned by the original grantor.

The full bundle of rights or fee simple is the closest one can get to the everyday idea of ownership. A person who possesses fee simple ownership will have the least constraints on the use of his or her land. On the other hand, the person who is the owner of fee simple is still subject to constraints of its use by the state. The state can condemn the land for a public use or use police power for the public welfare.

Direct acquisition of property can be accomplished by buying, donation or a long term lease. The easiest way to protect a building or an area is to buy it. This is also the most expensive. A private individual, interested group or governmental agency can attempt to purchase property for preservation and adaptive reuse. The donation of a historic property can be beneficial to an individual who is in the upper tax bracket. It can be used as a tax advantage. But, the historic property has to be donated to a public or private body engaged in preservation work. There are a number of legal ways through which people can donate historic buildings and receive financial benefit. It is important to realize that if people do donate historic property there are tax benefits. The specifics will not be covered in this thesis.

Another way to preserve property is to acquire less than the full ownership of the entire property. A part of the building--the section which is significant--can be acquired with the remainder of

the building still in the owner's possession to do with as he or she pleases. There are two ways to accomplish this; first, through the purchase of the desired part to be saved or secondly, by some less-than-fee simple interest in the property. In our legal system the second approach is used most.¹⁰⁴ The purchase of less-than-fee simple can be accomplished in three ways. These include easements, development rights and covenants.

Preservation Easements.--An easement can include limitations on land development and structure modifications. There are two types of easements, the negative easement and positive easement. An easement is a nonpossessory part in real property; it gives a certain right to persons who actually do not own the property.¹⁰⁵ The negative easement is the future. The idea is to stop changes to an area or building which would destroy the character, historic integrity or historic value.

The positive easement, in the preservation sense, requires that improvements be made to a property to bring it back to an appropriate state. Over the years changes happen to a property. These changes can be through alterations or neglect. A positive easement requires that a building be fixed up to those specifications stated in the easement. Once the changes are completed, the positive easement changes into a negative easement.

Easements are written individually for each property and the owner must abide by them. When the easement is originally made, an owner must be involved in the process and agree to the terms. The

owner is involved so problems or hardships are eliminated and the owner grants final approval with his/her signature.

Easements are usually granted in perpetuity. This means that the easement lasts the life-time of the building or a specified length of time. The reason for this is that the easement will then go from owner to owner to insure the protection of the building over the years.¹⁰⁶ Historic preservation easements usually deal with exterior features of a building or buildings. There are usually four major provisions for these architectural easements.

The first major provision is a promise by the building owner that the appearance of the structure will not be modified without the prior written permission of the easement holder. Second, the owner must agree to maintain the structure and to allow the holder of the easement to inspect the property periodically. Third, the easement allows the holder of the easement to file suit to obtain an injunction to prevent the property owner from violation of any provision of the easement, or, if a violation has occurred, require restoration of the building to its condition before the violation. Fourth, an architectural easement will almost always declare that its provisions will be binding upon not only the present owner of the property, but also on all future owners. Thus, the easement "runs with the land" and, if properly recorded with a city or county government, it is not affected by the sale of the land.¹⁰⁷

Easements may also be used to control property next to an historic area or building.¹⁰⁸

Easements are used in historic districts and for individual buildings. Easements used in historic districts are a strong enforcement technique and allow for individualized controls within districts. Easements are also used in relation to groups that have revolving funds. The property can be bought, restored, and resold with an architectural easement written into the deed.

Development Rights.--Development rights is a fairly new concept whose use has been limited. Development rights can be acquired through the use of easements. The purchase of development rights is supposed to lessen and dissipate the incentive to use a piece of property for new construction. An historic building at times does not use a piece of property to its fullest extent allowed by zoning. The owner is compensated for not using the property to its fullest development capacity (highest and best use). This can be both effective and equitable to the owner and preservationist. If the land is already being used for a highest and best use, development rights cannot apply.

Covenants.--Easements and covenants are often thought to bear resemblance to each other. Actually they are quite different legal terms. Easements are a property interest that gives one the partial legal right to use of the property. A covenant is simply a type of promise. One property owner to another makes a promise or covenant as to the use of the land or "look" of a property. Covenants are most used in new subdivisions in an attempt to keep the appearance similar and uniform.

Covenants are usually written into a deed or purchase agreement. When a property changes hands, the seller can write covenants into the new deed to restrict the buyer in any way he wishes as long as the buyer is willing to agree. Covenants may be positive or negative. Positive covenants require the new owner to do something to the property. Negative covenants are ones that restrict the new owner from changing or demolishing the property. A covenant that is

carefully worded can be placed into the deed of a historic property, legally requiring the future owners to take care of and preserve the structure.

As with easements, covenants can be used in conjunction with revolving funds. A local nonprofit preservation group can buy an historic property using their revolving funds, then restore it and sell it with restrictive covenants. A number of groups such as the Historic Charleston Foundation (South Carolina) and the Foundation for San Francisco's Architectural Heritage use the combination of revolving funds and covenants for preservation.

There are two problems with covenants. These involve the transfer of the benefit (the person who enforces the covenant has the benefit) and the burden (owner of the covenant property has the burden to uphold it). The first problem is the question about what happens when the ownership changes. Does the burden go with the new owner? The second problem raises the question: Can the benefit be executed by anyone other than the original group or person who made the promise? These problems should be addressed in the original covenant so it is clear to the people involved, not as an afterthought.¹⁰⁹

Governmental Preservation Powers

The government can act just as any other legal "person" in acquiring rights to property. It has the right to bargain for and eventually buy these rights. The three governmental powers that apply to historic preservation, that private individuals do not have, are the rights of eminent domain, police power, and the power to tax.

Eminent Domain

Eminent domain is the power of the sovereign to take private property for a public purpose. The owner of a certain piece of land can be required to sell his land for a just price when needed by the government. The power of eminent domain is limited by law and like other government powers (police power), legal restrictions are needed for the use of eminent domain. Under the Fifth and Fourteenth Amendments to the United States Constitution the government is limited in its use of eminent domain.

Under eminent domain one can take the full fee simple or less-than-fee. "Eminent domain can be used to condemn easements, leases, options, contract rights, franchises and so on although the most familiar application of eminent domain is taking a fee interest in property."¹¹⁰

For purposes of historic preservation, the taking of fee simple means that the government will use the building, perhaps as a public museum or in a park. It is also possible to take property to be redeveloped and sold or leased to private individuals or groups. For this case it would be important to show that such a taking was in the desired public interest and should be supported by legislative action to be ready for any possible court cases.

The taking of less-than-fee can be accomplished through two means: easements and development rights. An easement being condemned has its advantages for preservation purposes because it would be less expensive than taking the whole fee. The condemnation of an easement

on a building would permit the building to remain on the tax rolls and still stay in private possession.

A government may also condemn the development rights on a building or area. This type of condemnation has been used along highways to obtain the right to develop, which may be used to stop development. This type of less-than-fee interest goes by the name of scenic easement.¹¹¹ Condemnation of development rights is a contemporary and controversial idea and as yet has not been used, but this method could be used in historic areas in the future.

Police Power

The next sovereign power that can be utilized for preservation is "police power." As stated in the Village of Euclid v. Amber Realty Co. (272 U.S. 365 (1926)), police power is given to the government to enact laws to promote the health, safety, morals and general welfare of the community. Police power is just one of the rights given to government to govern. The main technique used in historic districts under police power is zoning.

Zoning. -- In general almost all local governments use zoning as a way to control land use. The authority to zone is part of the police power held by the state government. City and county sovereigns have no authority to zone unless it is state mandated. Zoning was developed to stop nuisances by separating the various uses. The problem with zoning is that the zoning ordinance has been envisioned as an end state of development. Actually the forces of development and changes to land use have not conformed to the vision of the zoning

ordinance. In order for a zoning ordinance to work, it should conform to the manner of growth predicted by the zoning ordinance. The reverse is what has happened in cities. Many zoning ordinances have been amended so many times that the original plan is scarcely recognizable. The strip development and uncontrolled growth exists as a testament to how well zoning fails.

Zoning and Historic Preservation.--Zoning is one of the most common preservation tools in historic districts. Since zoning is not involved in buying the property or acquiring any interest in property it is cheaper and easier to implement for governments. The government also does not need the consensus of property owners in the area to implement zoning.¹¹²

The power to zone for historic preservation reasons comes from the state, but in different ways. Some states have enacted enabling statutes geared specifically to historic preservation. Unfortunately these statutes are usually narrow in approach, but they have been helpful in maintaining the character of many urban neighborhoods. They also provide potential for expansion. Other cities get their power to regulate historic districts from general state zoning laws.

Historic District Ordinances.--Originally preservation efforts relied extensively on private funds for purchase of a threatened property. This was insufficient. Something more was needed that was less expensive. The judicial interpretation of preservation devices such as historic districts did not mirror the hostility which had occasionally met early zoning regulations. By

the time major preservation schemes come before the courts, a sufficient legal framework for approach and validation had been developed as a foundation involving refined zoning questions. These were discussed earlier. Paralleling the shift in attention from historic significance to architectural and social significance has been a shift from the protection of single buildings to protection of groups and areas with historic district ordinances.

Historic district ordinances set up special zoning regulations to control the use and development of specific areas which were considered historical. All buildings within the districts are protected, even though all do not need to be significant. All buildings are included because regulations must be uniform to all property owners within the historic district.

The typical ordinance creates a volunteer group of people to administer the regulations of the historic district, known usually as the historic district commission. The members are appointed by the mayor or county board of supervisors. Some ordinances have requirements for the types of people who should be on the commission. This is an attempt to use different fields of experience.

Within the historic district ordinance, boundary lines are established and described. They can be given in a narrative way or placed on the existing zoning map as a special district. Within these boundaries all structures are controlled. The controls usually are to prevent demolition, exterior alteration, and more recently, to require minimum maintenance requirements. Minimum maintenance requirements are being used because of failures to maintain buildings

within historic districts. Owners sometimes let buildings deteriorate until they become unsafe and a health hazard. When they reach this state, the health inspector or the building inspector must order their demolition.

Only two ordinances specify in detail the "kind of defects that constitute deterioration and the procedures required to obtain compliance."¹¹³ These ordinances are Vieux Carre in New Orleans (1958) and Pioneer Square in Seattle (1974). Application for new construction, to demolish, or to alter the exterior of a building must be approved by the historic district commission or the building inspection department, depending on the ordinance. Some form of appeal for an adverse decision is provided but the procedure is different with each ordinance.

Historic district ordinances also contain design standards for exterior alterations and construction of new buildings in the district. The purpose for these standards is an attempt to keep a consistent sense of character within the district. The standards are used by designers and the historic district commission as a basis for what is appropriate for the district.

Taxation

Taxation is another one of the governmental powers that can affect preservation efforts. Depending on the type of taxation, tax laws and policies can be a benefit or a detriment to preservation efforts. To an individual, a nonprofit group, or a corporation" any decision concerning the alteration, destruction, or preservation of his property will include economic considerations."¹¹⁴ In most cases,

though, decisions are purely economic. This is where taxes are a critical consideration. Taxes will be discussed later because the subject fits into the next chapter on economics. Taxation was mentioned here to make it clear that it is an integral part of the government's power.

CHAPTER V
ECONOMIC MECHANISMS AND CONSIDERATIONS
IN PRESERVATION

Economic viability is the single most important aspect of preservation. This fact makes Chapter Five very important. The chapter is split into three major sections: historic districts and economic considerations for preservation, economic considerations against preservation, and economic mechanisms to accomplish preservation.

Economics of Historic District Zoning

Traditionally, zoning was created to serve several social purposes in the private market and was legally based on the state's police power. The purpose of zoning was to ensure that contiguous parcels do not threaten each other's values due to being incompatible uses. When zoning is effective, each owner is partially guaranteed that neither he nor his neighbor can put in a noxious use. All benefit from this mutual self-restraint.

Historic district zoning goes beyond traditional zoning. Within an historic district that has an ordinance, uses are not restricted to one type. All different types of uses can be allowed such as public, residential, and commercial buildings. Also under

historic district zoning, exterior alterations are restricted or even frozen to their current physical appearance, while the interiors can be changed. The economic reasoning behind this type of zoning is that individual historic structures gain value by being incorporated with other historic structures. All the structures gain value from mutual restrictions.¹¹⁵ Enforcement is needed, as with traditional zoning. Without enforcement, one owner can profit by going against the historic designation while the rest of the owners observe the historic district zoning ordinance. The "wildcatter" might build a structure that doesn't conform in materials or design and yields a higher profit.

The discussion so far has assumed a market exists for a historic district because the buildings within the district are historic and aesthetically pleasing. If the buildings are not considered economically valuable as an historic grouping, then the historic district status could well lower the property values and resale value. Within the realm of this thesis, if a district does have an historic designation, then that designation should be a marketable asset.

Many times designated historic districts are areas which have been slums and land can be bought cheaply. In these areas, restoration costs are high compared to the low cost of land. Since restoration costs are high, the private individual is reluctant to invest in an area by himself. Investing money in a building, when no one else in the area is fixing up their property is a high risk. The historic district designation can be a signal in an otherwise

fragmented market. It creates a concentrated area where people wishing to fix up a building with character and architectural spaces can go. If an entire city attempts to be designated as an historic district, the concentrated affect will be lost.

Comparing historic districts economically with individual landmarks, one finds a solid justification for historic districts. Historic district zoning is primarily an attempt to induce or capture the interrelationship between buildings in the area, which raises their economic value mutually. In such a district, property values rise. Individual buildings designated as landmarks, usually lose property value because property value is determined by expectation regarding the future profitability. Any building that is by itself and not reinforced by other buildings has to stay economically viable to keep a resale value.

Historic District Stabilization and Improved Property Values

With a historic district, property values usually stabilize first. Then after stabilization, property values tend to rise. It is interesting to note that most of the opposition to one historic district, Swiss Avenue District in Dallas, Texas, came from landlords whose property was outside the district boundaries and who thought there might be a loss in their property value.¹¹⁶ This has yet to be shown to be true.

The proof of property values increasing in historic districts has been shown in city after city.

Examples include Pittsburgh's Manchester Renovation Project; The Aneonbrough Project in Charleston, South Carolina; Savannah, Georgia, Lexington, Kentucky's Short Street area, the Pioneer Square District in Seattle, Washington; German Village in Columbus, Ohio; and of course, the Vieux Carré in New Orleans.¹¹⁷

The most dramatic examples are: Beacon Hill in Boston where values tripled in 7 years and El Pueblo Viejo in Santa Barbara, California where the selling price of buildings within two years increased 75 to 150 percent;¹¹⁸ German Village in Columbus Ohio where property values doubled only two years after the district was designated.

Another example is Seattle's Pioneer Square which was created in 1970. Here property values between the years 1965 to 1973 increased approximately \$4.7 million or 77 percent. Officials like to use the example of four buildings which were purchased between 1965 and 1970, before the district was created, and then resold after the district was designated. Even with adjusting the market price for improvements, the selling price was 75 percent above the original purchase price.¹¹⁹

There has been one well-known exception to this stabilization and increase in property values. The Gaslight Square area in St. Louis. A commercial district that was not done well and included too small an area for growth and it was not able to influence its surroundings. The district's property value dropped along with the entire surrounding area.¹²⁰

The following ways to assess the economic impact of a historic district were suggested by the National Trust for Historic Preservation.

- (1) Analyze trends in real estate values (including rents) within the historic district and compare with trends for similar areas elsewhere in the community. Indicate whether property values and rents are rising faster or slower in the historic area than elsewhere.
- (2) Analyze trends in real estate values in the area adjacent to the historic district. Determine whether the district is having a "spill-over" effect on these areas.
- (3) Analyze investment trends in and near the historic district. Indicate whether the preservation of the area has promoted or hindered investment as compared with the period before comprehensive preservation was undertaken.
- (4) Study retail sales trends of stores located in and near the district. Determine the impact of preservation activity on sales.
- (5) Relate the historic district to the economic base of the community and identify the role played by the district.
- (6) Identify the public financial costs and benefits relevant to the area and determine whether the historic district "pays its way."
- (7) Analyze tourism trends in the community and determine the role played by the historic area in the promotion of and benefits from tourist traffic.
- (8) Analyze the economic impact of the construction business being generated by rehabilitation of structures in the historic district..
- (9) Compare the value of rehabilitated properties within the historic district with the value of similar but newly constructed buildings.¹²¹

Such a detailed study is presently being done by the National Trust. Data are being collected from three geographical areas: the historic district, the area surrounding the district, and a section of the community similar to the district but utilized as a control area for comparative purposes. Unfortunately, such data are not presently available for this thesis.

Other Economic Benefits of Historic
District Preservation

Historic district preservation can be a mechanism used to strengthen the local economy in several ways. These can include tourism, additional employment, increased investment, a growth in tax revenue, and a decrease in crime. All of these are in some way economically beneficial to the city involved. Either through an increase of money being brought into the city, or a decrease in money the city must spend.

Next to increasing property values, tourism has been the second most important reason for historic district implementation by cities. Tourism alone is the third largest revenue producer in every state in the union.

Historic sites are an important element of this growing trade. A survey of members of the American Automobile Association showed that 81% named sightseeing as a major recreational activity in vacationing. AAA recommends that a vacationing couple budget \$36.00 a day for food, lodging, trips and gasoline.

An estimate for metropolitan Philadelphia is that at least one-fourth of its \$250 million a year tourist and convention business is attributable to historic sites.

The Thomas Edison Birthday in Milan, Ohio (population 1,400) brings over 25,000 visitors to town. The general area has fifty motels.

In a recent survey, the Ohio Development Department concluded that a community attracting 36,500 visitors a year could expect to receive an additional \$777,000 in personal income through 111 new jobs, \$144,300 in bank deposits and \$1,119,908 in added retail sales.¹²²

The above figures can be multiplied even higher for historic districts. They have a greater drawing power than individual buildings. A district, which is well integrated with different types of uses, can attract the tourist dollar with restaurants, stores and

bars. Not all historic districts can house a tourist trade, but for the ones that are able to, they have a very viable enterprise.

Historic districts can result in additional employment, increased investment and a decrease in crime. Seattle's Pioneer Square is an example. Pioneer Square was developed in an old section of the city. Through an initial investment of \$1.2 million in public funds, \$10 million worth of private investment was generated. When the district was first developed, 1,000 people were employed within its boundaries. In 1976, 6,000 people were employed in the same geographical area. Approximately 200 new businesses started during this same period. Along with the dramatic economic change in Pioneer Square, the crime rate dropped from 17 percent of the city's total to 1 percent.¹²³

As mentioned earlier, historic district designation and ordinances tend to stabilize and improve property values. Therefore, as land and building prices increase, so do property tax revenues. As revenues to the city increase within an area, the city can afford to provide more adequate public services for it. The increased tax base usually pays for the cost of public improvements to the historic district.¹²⁴

Economic Considerations Against Preservation

As previously stated, benefits from creating historic districts include an increase in property values, a new income from tourism, and a greater tax revenue. Not all preservation efforts are an economic bliss. Both public agencies and individual owners or investors will have costs which should be considered in planning a

preservation effort. These costs can be accrued in many ways as

Mavis Bryant explains it in Zoning for Community Preservation:

Individual property owners may suffer from not being allowed to put their property to its most profitable use, from being required to maintain property in good condition, and from having to pay higher taxes as property values rise. Tenants may find rents increased. Substantial public investment, too, in the form of improvements such as parks, landscaping, street furniture, lighting and sidewalks, is usually required as a catalyst to private investment. Public action to reduce the burden on owners of historic properties may reduce tax revenues from such properties for a time. If sensitivity to the delicate balance between costs and benefits from a community preservation program does not characterize both planning and administration of program elements, serious dislocations may occur within a redeveloped historic areas.¹²⁵

The following are economic considerations one should be aware of when considering preservation through the use of an historic district.

Land Values

Land values increase because of location of the land in relationship to the demand of use. With large increases in land values, relatively new buildings cannot survive in a climate of rising land values; it is hardly surprising then that vintage historic buildings fall victim as well. The spectacular increase in the value of urban land, as seen in most downtown locations, puts market pressures so that as many as three buildings in less than 100 years are built on a location. The continuing increase in land costs demands a more intensive use of that land. This intensive use is such that no landmark can supply the added demand. The average urban historic building is very small compared to the potential structure the site could support. Even if the historic structures are structurally

sound, and have a potential to be renovated, there still is a gap between the renovated use and the potential highest and best use the land could possess.¹²⁶

Increased Rents

Within a historic district, as it becomes rehabilitated and the accompanying costs of maintenance, property values, and taxes start adding up, then rents will rise. Rents rise due to added costs, and because more affluent tenants can be attracted. The present residents see any change as a tragedy. Poor people and small shop owners find it difficult, if not impossible, to continue staying in this kind of area. Another result is that increased property values cause the conversion of single-family residences into multi-unit residences in order to gain a higher income. This drastically changes the character of the neighborhood.

Building Codes

The requirements set up in building codes can often increase the cost of maintaining or renovating old structures. Under the authority of police power, states can enact laws for the protection of the community under the criteria of health, safety, morals and general welfare. According to this power, city and county governments have been given authority by the state to adopt building and housing codes which provide "minimum standards for the design, construction, use, and maintenance of all buildings and structures within their jurisdictions."¹²⁷ Generally, most provisions of the Uniform Building Code (adopted by most cities) do not apply to structures which were

erected before the code was enacted. There are several circumstances when the codes can affect the upkeep and renovation costs of historic buildings. "Where the building undergoes major renovations, or where it is so delapidated as to constitute a threat to public safety, or where the number of persons using the building greatly increases, the Uniform Building Code requires the entire building to conform to codes. The costs necessary to bring the structure "up to code" can often represent a roadblock sufficient enough to prevent preservation."¹²⁸

Besides the Uniform Building Code, there is also the Uniform Housing Code (U.H.C.) which deals in a large part with existing structures. "The U.H.C. establishes very specific standards for wiring, sanitation, ventilation, fire protection, plumbing, lighting, and other necessities."¹²⁹ If a building is substandard, the city can then issue an order requiring the building be repaired, vacated, or in fact demolished.

Any building that is relocated or renovated, must be brought up to code. The cost for this type of project is sometimes highly undesirable and the required change could destroy the character of the building. Since building codes were not written with historic preservation in mind, some cities are writing building code ordinances. These ordinances waive certain provisions of the building code in special cases involving historic structures. A problem usually arises with wooden buildings which were never made to conform to today's codes. In order to have sensitivity to the problems of renovating such structures, waivers are needed for sections of the code.

Building codes at the same time are important and cannot be lightly waived. Insurance companies consider historic structures a bad liability if code requirements have not been met.¹³⁰ It is possible to assume that many buildings in historic districts like the Vieux Carré exist because they were up to code previously for safety and fire standards which prevented destruction by fire. Codes are important, they have to be reassessed with safety, fire and aesthetic values intermingled.

Barrier Free Access

The accessibility of buildings to handicapped people is one of the major problems that is finally being addressed in the 1970s. Recent legislation in Michigan, Act 177, 1975, has attempted to make buildings more accessible. Act 177 will be used as an example for this thesis, but acts in other states are being passed with the same objective: accessibility.

Act 177 states that all public and revenue generating buildings should be accessible. An important example is apartment complexes. Twenty-five percent of the units have to be accessible. Public buildings that serve the people have to be available to all. This means the addition of ramps and elevators to existing buildings which is a problem for historic, public and revenue generating buildings that cannot make the needed changes without destroying the character of the building. Variances are available from a state review board, but this is a questionable situation when historic buildings are involved. At the present time, a set of new regulations is being put together to modify the requirements for making historic

buildings accessible. Buildings that qualify for historic status would then be placed under these new regulations. But, there is still the problem of accessibility versus historic character for which the solutions are few and limiting.

Maintenance Costs

The preservation ordinances that are most effective have anti-neglect sections which require a certain amount of upkeep on the buildings within a historic district. Where such provisions are not incorporated into ordinances, communities must face the problem of demolition when owners allow buildings to decline beyond a point where they can be repaired. This in effect defeats the purpose of the ordinance.

When maintenance standards are required the costs may be too great for some property owners to bear. This is especially true in poor districts where the people cannot afford anymore money for housing. This may be particularly evident in older historic areas which are deteriorated and are starting to be revived through historic district ordinances and preservation programs. If maintenance standards are required, some provision must be made to stop undue hardship caused by the ordinance to the property owners.¹³¹

Restrictions on Use

When a historic district ordinance is applied to a certain area, it attempts to freeze the character of that area. The structures are frozen so they cannot be demolished or their exteriors damaged. This can have the effect of constraining a property owner

to retain the existing structures. This may mean that the owner is foregoing a greater income which he could accrue through building a newer and bigger building or extensive renovating. Even though such legal restrictions are the right of the government and are needed to have the broader public benefit of historic preservation, they still are a restriction to an individual's use.

Taxation

A district is made up of many individual holders of historic property. When one owner makes an alteration, destruction, or preservation to his property the main consideration will be economics. Most owners of commercial property would desire an income from their property. If the return is low compared to the investment, the owner most likely would change the use of the property to one of greater income. If an owner is using a property for his own use and there are higher operating costs in the form of maintenance and taxes imposed, its present use might be abandoned. The end result of this could be that the historic qualities of the structure would be destroyed or even the structure itself.

There has to be a mechanism to offset opportunity costs to landowners. Opportunity costs are assumed higher revenues available to a property owner if his land were used in a different way. Many times holding costs on a historic structure are minimal, but the opportunity costs are very enticing, especially if a landmark is located where there are high property values due to economic pressures for redevelopment.

There are two types of taxes to be concerned with in regard to preservation, property tax and income tax.

Property Tax.--Property tax has two components: "a tax on the land and a tax on the improvements (anything built on the land)."¹³² If special allowance is not made for these two components, they can work against preservation.

Opportunity costs cannot be directly regulated by taxes, but holding costs can be reduced by a revised use of the property tax. Property tax works by assessing the land and buildings at their market value. The value of property is assessed from the highest and best use on the open market for the property and not at its present use. Historic buildings in a high demand area of intensive use will be taxed heavily no matter what the present use.

To add to the owner's dilemma, if he would like to preserve a historic building and make improvements on that building, those improvements to the structure will increase its market value and taxes will go up. Property tax assessment increases as the value of any improvement increases which works as a disincentive for preservation.

To provide lower property taxes for historic buildings does not guarantee certain preservation or that the taxation mechanisms used are adequate. The concept should be to provide an incentive to preserve a building or to "at least eliminate the incentive to demolish historic property."¹³³ The idea to use property tax as a preservation tool is fairly new. The state of the art is based on

tax incentives to preserve open space, but these principles can also be applied to historic property.

An often used property tax technique that changes land use determinations is present-use assessment.

Since the basic problem is that landmarks and open space often cannot return sufficient revenue to affect taxes which are based on a higher and better use of the land, present-use assessment mitigates the problem by taxing the property only on its value for present uses, not on the basis of any speculative or future uses.¹³⁴

There are three types of present-use assessment techniques: preferential assessment, deferred assessment, and contract assessment.

Preferential assessment is the most used and the simplest form, but the least effective type of present-use assessment. Under this assessment, after a property is approved as historic it is assessed on its present use. This tax will not reflect the market value, which is based on the highest and best use. If the building is ever altered in any way to change the architectural significance, the tax will revert to the one reflecting the true market value of the property.

Deferred assessment works much the same as preferential assessment. A record is kept of the difference in the tax between the market value and the present-use assessment. If the owner changes the use or appearance of the property, so it no longer qualifies for the present-use assessment as a historic property, then the owner must pay the additional taxes. There is usually a time limit from two to seven years for which the taxes have to be paid back. Under this scheme, an owner's options are more restricted and the incentive to keep an historic property intact is more meaningful.

"Connecticut (Conn. Gen. Stat. 12-127a) has adopted a deferred assessment scheme, but there is no limit on the number of years of back taxes that will be recovered upon change or appearance."¹³⁵

Contract assessment is an agreement between a historic property owner and the local government in a legally binding contract to restrict the property use and building as it is for an agreed upon number of years. There is a penalty for a breach of contract which is an incentive to keep the contractual agreement. California is the only state to use this technique with historic property. On the other hand, three others use it for open space land (Washington, Pennsylvania, and Hawaii).

One of the problems that has surfaced using present-use assessments is a result of the high opportunity costs in urban areas where historic properties are located. Here a complete reduction of property taxes will do little to persuade the owner not to change the property to a more intensive use. In the absence of a demand for more intensive use, the present use assessment seems to work, but this is the area of least need. Those states that "have present-use assessments schemes for agricultural, open space, or historic property with long-term restrictions and strong penalties for breach have experienced very little use of their statutes."¹³⁶ Another problem with present-use assessment is in most of the enabling legislation. States do not reimburse local governments for their loss of revenue through the implementation of present-use assessment techniques.

In conclusion, present-use assessments have not been utilized sufficiently to make an accurate assessment of their effectiveness.

But at the same time analysis tends to be unfavorable.

Present-use assessment may be quite effective if carefully drafted and administered. The analysis does suggest however, that the contract form may be preferable because the possibility of an unproductive loss of tax revenue is minimized.

One theme of the analysis is that successful implementation of present-use assessment enabling legislation depends heavily on the sophistication of the local planning process. Even the most carefully drafted legislation will be unsuccessful without the cooperation of local officials. As legislation which only authorizes cities and counties to act, present-use assessment is limited by the quality of local planning and taxing processes themselves.¹³⁷

There are other variations of the property tax that have been used in different states for preservation purposes. These variations include reduction of taxes on any publicly held easements on property alteration or demolition and exemption from the tax roles for historic property held by nonprofit historical societies. Some states are giving credit for restoration costs toward property tax payment over a number of years. Under this system, when an owner can get credit to cover the total cost of restoration, the government is actually paying for the restoration. The most positive legislation with regard to property tax and restoration has been passed in Puerto Rico. If an owner fully restores his property, he pays no property tax for ten years. A partial restoration earns five years of free property tax. Added on to this, the property does not have to have rent control or income tax on the rent. Even though property taxes are quite low in Puerto Rico, the above condition may provide active mechanisms for preservation.

Income Tax.--The second type of tax that can be used to encourage preservation, but has actually worked against preservation, is the income tax. The federal income tax regulations have been the main detriment. New construction is given tax benefits which are unavailable to older buildings needing major renovation. The Tax Reform Act signed by President Ford on October 4, 1976 gives important new tax incentives for historic preservation. It attempts to correct the past inadequate sections of the tax code which worked against preservation. The Act makes tax advantages available to the public through the Secretary of the Interior. Briefly, the Historic Structures Tax Act S. 2347 would:

- (1) allow a five year write-off of approved rehabilitation costs of property on the National Register or in a Registered Historic District;
- (2) deny deductions for expenses incurred in demolishing historic property;
- (3) limit to the straight-line method the depreciation of property, built on the site of demolished historic property;
- (4) allow those who substantially rehabilitate property to use the accelerated depreciation methods previously restricted to new construction; and
- (5) specifically allow charitable deductions for easements donated to protect historic property (emphasis added).¹³⁸

Number two is of great importance to this thesis. In the revised code a taxpayer can no longer deduct the cost of the demolition of a certified historic structure. Included in this are all buildings located in a national, state or local registered historic district unless the Secretary of the Interior certifies otherwise. Before the Historic Structures Tax Act, the federal tax code had encouraged demolition by allowing owners to deduct demolition expenses. This

had been a major problem to historic preservation. The first four parts of the Act are relevant to property that is depreciable or property that is an income for an individual.

Economic Mechanisms To Accomplish Preservation

A property owner needs assistance with financial aspects of preservation and for public improvements in historic districts. There are a number of ways people are given help. Some of these mechanisms have been mentioned previously, they include easements, restrictive covenants and tax incentives. They will be discussed briefly as ways to accomplish preservation. There are other ways to promote historic preservation in historic districts. They include adaptive re-use, revolving funds, transfer of development rights and direct acquisition.

Easements

An easement is a limited ownership right in a piece of real property granted by the owner to another person or body. An easement that is granted by a property owner on his historic building can be used as a savings. The property owner can save on Federal income and local property taxes. The easement given is assessed at a certain level and this value is donated to a nonprofit, tax exempt organization. This donation can be deducted from one's taxable income. "In Annapolis, Maryland, where easements have been used extensively for preservation, the appraised value of a facade easement is about 10 percent of the appraised value of the fee simple interest (total ownership). When an owner reduces the value of his property by that

amount the valuation for tax purposes can be lowered accordingly."¹³⁹ The important aspects are that the property remains in private ownership, the owner must keep up the maintenance on the historic building, and the public body continues to collect taxes on the nine-tenths portion held by the owner.

A single easement, at times, can stop new construction on a whole series of front facades. Used in an advantageous way and administered well, an easement can be a strong preservation tool.

Tax Incentives

Taxation has been discussed, but this section will summarize briefly those tax incentives that are used or can be used as preservation tools. Four types of tax incentives can be used.

- (1) Abatement of property tax when tax load threatens continued existence of historic property.
- (2) Exemption from property taxes to extent of restoration costs.
- (3) Special classification of designated buildings for tax purposes.
- (4) Exemption from property taxes in consideration for easement or agreement with owner of designated property to refrain from altering or demolishing a structure without consent of the local commission.¹⁴⁰

The first tax exemption would allow part or whole exemption of property taxes on designated properties. The owner would have to show that without a tax abatement he would have to demolish the historic structure he owns.

The second exemption would allow owners of designated properties to take the costs of approved and documented preservation, maintenance, and restoration and use a portion of those costs for an abatement from local property taxes. The building involved would

have to be part of a certain area or buildings designated as a local, state, or national significance. The exemption would probably last a specified number of years and designate certain percent of the costs of work done.

The third type of exemption would take a building or an area of buildings that have been given a special classification and apply to them a special designation for tax purposes. Buildings which are designated could be taxed at a reduced rate, but not the land they are located on.

The final exemption would give a tax cut from property taxes for an easement or promise with the owner of a historic structure to stop from changing or destroying a building without permission from the local governmental authority. An owner of a historic building could get an exemption from all or part of his property taxes if he agreed to a binding agreement which would meet certain specifications, place a restrictive covenant, or place an easement on his property. Conditions could vary from specific changes on the historic structure to demolition and different degrees of change in between.

The Vieux Carré historic district in New Orleans is an example where the city grants an exemption only after the owners and heirs of the structure agree to a formal contract which forbids any alteration or demolition without prior approval of the historic district commission. The idea again, in giving the property tax exemption is to encourage upkeep and maintenance on a structure which normally would be too costly.

Restrictive Covenants

A covenant is not a right to ownership like an easement, but a legal promise to the use of a property. Covenants are written into the deed of the property to restrict the new owners and owners in the future to the agreements in the deed. A designated body is given the responsibility to make sure the restrictive covenant is upheld or to approve alterations that are made to the property. The designated body can sue the owner if he violates the promise. Sometimes the body has the first option to buy the land when the owner wants to sell the property.

This tool has been used by groups who buy historic buildings, restore them, and then sell them with restrictive covenants as part of the deed. This device has been used in specific historic districts such as Savannah, Georgia and in the Strand in Galveston, Texas.¹⁴¹

Adaptive Re-Use

One of the most successful economic solutions up to this time has been to use the existing real estate market and to re-use or adapt underused historic or architecturally significant buildings. To change the functions of these significant structures to contemporary uses has been quite successful. But it has only been in the last ten years that adaptive re-use has become competitive with new construction costs.¹⁴² A combination of a conservationist attitude to the environment and numerous successes has brought about one of the most important changes in the state of preservation economy of the early and mid-1970s.

Reasons for more adaptive re-use include an increase in fuel, material, and labor costs. Especially the sharp rise in fuel and material costs in the 1960s and 1970s. Other changes which occurred to increase adaptive reuse include: rising costs of demolition, the need for new construction of large tracts of cleared land, "no growth" attitude, the energy crisis, and other economic considerations. People saw that there were economic benefits in adaptive re-use. They could buy, restore and then sell for a profit restored buildings within the city. People started realizing the long-overlooked benefits of urban living. The old buildings of cities provide more interesting and varied environments for people to live, work, shop and eat.

The Advisory Council on Historic Preservation finished a survey of adaptive re-use projects in June of 1976. The results of the survey were that adaptive re-use was not always cheaper but close enough to new construction costs to be competitive. They concluded that adaptive re-use was a viable alternative to new construction to provide the space needs of new tenants.

The costs of each project will vary greatly depending on the amount of work needed to be done on each different structure. The components that were more expensive were the architectural and mechanical work. These costs could be kept down by the architect through creativity and ingenuity. The demolition and structural costs were relatively low and so not the major determinants of a project. The important aspect in comparing adaptive re-use versus new construction costs is the quality and character of the space

created by both. An appreciation of the quality of the finished product is essential to place the comparative cost figures in perspective. The amenity benefits on a restored building should be taken into consideration because those benefits often provide economic return through higher rents and occupancy rates. As George Notter, a Boston architect explains it:

. . . more often than not, the total dollar expenditure for preservation, including the acquisition of the property involved, is about the same as new construction. Thus the plus factor is achieved by developing the potential assets into a final project of greater amenity--one having the right location, more space in either height or volume, more area or more character, materials of special quality or a potential for time savings in construction.¹⁴³

Revolving Funds

For any major historic district preservation a revolving fund is very important. In broad terms, revolving funds, public or private, are started with a sum of money raised in any way possible. The money raised is then invested into projects which are projected to repay the investment and even at times make a profit. The money is best used when it is applied to certain areas or historic districts rather than haphazardly distributed throughout a city.

Arthur P. Ziegler Jr. in his book, Historic Preservation in Inner City Areas: A Manual of Practice, describes how revolving funds can be beneficial to a preservation group's effort. First, the revolving fund tends to give force to an organization's efforts and economic resources. This is especially true if a specific district is picked to work on. Secondly, the idea of an established and permanent revolving funds attracts donors. They like to see their

money being used and the benefits that revolving funds have on an area. Thirdly, administrative costs of an organization can be taken from the profits of the revolving funds so that the organizational framework can economically keep going as well as the revolving funds. Lastly, revolving funds are a way that preservationists can obtain power. Without legislative support a preservation cause can be futile. Revolving funds are one way to show that a group and an effort are alive. An organization can gain political influence by showing restoration going on because of its efforts.¹⁴⁴

There are five basic types of revolving funds which can be used, or bits and pieces taken from each to develop one's own revolving fund.

The Charleston Fund was the first revolving fund in the United States and is administered by the Historic Charleston Foundation. The fund is used to buy a structure, restore the facade, and then sell the building with restrictive covenants placed in the deed. The interior of the building is not touched so the new owners can use their imagination on it. The idea is to get people interested in an area by restoring the exterior of the buildings. In the last few years, the Charleston Fund has been buying "large rows and clusters of buildings" to have more area protection.

The Savannah Fund, also one of the first, has been working quite well over the years. The historic Savannah Foundation administers the fund by picking out an area of consideration and purchases property there. They then promote the area with advertising to influence people to move into the area. The Foundation is run by

businessmen, not true preservationists, and so is based on economic principles. Guidelines and restrictions are established in the chosen area and a restrictive covenant of 99 years placed in the deed to prohibit facade change. This is backed up by a local preservation ordinance which requires a permit to change facades.

The Pittsburgh Fund administered by Arthur Ziegler's organization, the Pittsburgh History and Landmarks Foundation (PHLF), is quite different. They are concerned with a total restoration, interior as well as exterior. The main difference is that the PHLF rents its units to the original residents. Low or moderate income people living in the buildings are not displaced. They try to develop residences for all income people within an area. The main idea behind the PHLF's use of their revolving fund,

is an effort to make old buildings function in a modern city--a changing city--and for all income groups. While some of its restored properties are rented to moderate-to-middle-income groups, others rent under the leased housing program to low-income tenants; we get our investment returned in about 15 years. Not a quick profit, but we are fulfilling our goal of saving valuable buildings, improving the environment, creating fit habitations, and serving low-income families. So far there have been no social problems in our integrated neighborhoods.¹⁴⁵

Two other revolving funds are important. They were developed in Pittsburgh not as preservation funds, but as funds to provide good, decent housing.

The first was established by the Neighborhood Housing Services (NHS), a nonprofit group, made up from many other organizations to fix up a Victorian-style neighborhood which was run down, but for the most part owner-occupied. The people were unable to improve their property because of the costs and redlining practices. A code

enforcement program prodded property owners to get help from NHS to see how to bring their property to code. Then, if a bank would not give them loans for the improvements, NHS would loan them the money.

The other revolving fund, called the Major Development Fund, was set up by the Action Housing Development Fund, a nonprofit group, who was established to improve low and moderate income housing. The fund loans money to contractors to go ahead with projects the banks are not going to loan money to at first. Action Housing gets the money by borrowing it from corporations at 4% and loaning it at 8%. After the contractor has proven to the banks that his project works, he then pays back the money to Action Housing.¹⁴⁶

Revolving funds can be used as a preservation tool. They can be used to set standards, be examples of restoration, enable one to buy property, used as an emergency fund, and they allow a preservation group to buy property in poor condition and fix it up to attract private investors into an area. In sum, revolving funds can be used as an anchor in an area to help stabilize it.

Transfer Development Rights

The transfer of development rights is a new tool used in historic preservation to protect privately owned landmark buildings on prime downtown locations. John J. Costonis has developed this technique for preservation in the book Space Adrift: Landmark Preservation and the Marketplace. Government buys from an individual land owner the unused development potential (development rights) of an historic landmark. This unused development potential is defined as the full space allotment under the existing zoning laws. The

development rights are sold to a developer to be used on another site. This allows the new building to be larger and more profitable than the zoning regulation would normally allow. "The transfer of development rights in this manner, carried out according to strict urban design controls, shifts preservation costs from the city landmark owner to the downtown development process itself."¹⁴⁷

Transfer development rights can be used in historic districts. There are two types of districting techniques proposed by Costonis. The first would put a border around an area where most of the city's downtown landmarks are located. The development rights sold from one landmark would have to be used within the designated area. The second type suggested would be the most appropriate for historic districts. This is less restrictive and also promotes the idea of an historic district. A neighborhood or downtown area of significance is designated as historic. Higher density there is not desirable because more intensive development would be a threat to the character of the area. Development rights within the district are transferred to other parts of the city.

An example of the above would be the proposal that has been suggested for the restoration of Washington's Georgetown waterfront district. "Funds for restoration would be generated by the sale of the development rights of historic properties within the district."¹⁴⁸ The rights would be distributed to a predetermined area, next to Washington's new subway system where high densities would be more beneficial. If the rights were sold in the Georgetown district, then the district's visual and dimensional scale would be destroyed.

Another example where transfer development rights have actually been used is South Street Seaport. The South Street Seaport Museum is a whole district in lower Manhattan, New York, that was protected through a combination of landmark designation, development rights transfer and urban renewal. What is unique about this project is that the development rights were banked for future use someplace else. The Office of Lower Manhattan Development was able to line up a group of different banks to purchase the development rights over the district. Then these funds were used to buy out the developers in the area.

With the threat of demolition of the structure in the district gone, the Seaport district was able to plan for the historic district and begin restoring the buildings. Transferring the development rights took pressure off inflating property values, which slowed down, so it became economically feasible to restore the older structures. Now the problem was to make the area economically self-supporting with a mixture of profitable commercial activities.

Transfer development rights have an uncertain future with respect to historic districts. With transfer development rights, costs are shifted from the public to the new marketable commodity. The marketable commodity is the ultimate source of the compensation system which demands an increasingly intensive use of land. As long as the system can be politically viable and the administrative problems worked out the proper conditions can be created to make transfer development rights a preservation tool for historic districts. Because of the political and administrative hurdles, the concept of transfer

development rights will not be used frequently in respect to historic districts in the near future.

CHAPTER VI

POTENTIAL IMPACTS, CAUTIONS, AND IMPLICATIONS
OF HISTORIC DISTRICTS

The potential impacts, cautions, and implications of historic districts are important considerations. This final chapter is the catch-all chapter. It deals with a variety of considerations related to the preservation of historic districts. These include: costs versus aesthetics; historic districts and the environmental movement; preservation and the poor; the question of historic districts and neighborhood conservation (Is establishing historic districts enough?); and last, a discussion on integrating preservation and historic districts into planning, environmental, and social considerations.

It is important when defining historic districts that historic have a broad definition. Districts are groupings of buildings which are linked together by elements which are not all historic. They are made up of elements which are architecturally, visually, and environmentally important. The creation of districts is a method to preserve aesthetically pleasing areas which are not necessarily historically linked. Districts along with other preservation tools can be used to stabilize and preserve visual amenities of areas. The broad definition of historic should be emphasized and stressed to help preserve aesthetically pleasing areas..

Conservation is a word that defines more clearly than preservation the attempts of using districts to save viable, very liveable, aesthetically pleasing, and culturally significant areas. Districting can be used to take areas which are deteriorating and help revitalize them. This is the main consideration. The secondary consideration is the cultural and historic benefits of saving historic districts. People can be enlightened about the history of their community and learn to appreciate its past. A district can be the rallying point for cultural activities. The atmosphere created by a historic district often attracts musicians, artists, and unique shops which then add to the area's attraction and character.

The following are other impacts, cautions, and implications for historic districts. They are just part of a whole group of current and future considerations.

Costs Versus Aesthetics

When restoring or revitalizing, a compromise has to be made between restoring to the original style of architecture and the cost of such an undertaking. An authentic restoration will try to match every detail, including the original paint colors. For a private individual interested in sweet equity, that is too time consuming and costly.

Historic districts try only to regulate exterior features of buildings. If the restoration of the exterior is made true to the character of the district, and not a modernization, it is adequate. The interiors of buildings are very personal spaces and should be left to the discretion of the individual owner as to use. His or

her personal items and expressions of taste should be expressed and not years past.

Historic Districts and the Environmental Movement

Historic district conservation is part of a growing cultural need to save our nonrenewable resources. For the most part, a public awareness of the need to protect our aesthetic nonrenewable resources, such as historic districts, was dormant until the last ten years. It has become a moral dedication of many people to be concerned with ecology, conservation, and pollution control.

The growing awareness of the environment has strengthened the cause for the preservation or conservation of historic districts. Conservation of historic districts is a tangible item people can relate to and is usually nonthreatening to the majority of society. At the same time, there are people skeptical of the preservation movement because of their perceptions of the goals and directions of preservation strategies or they are alienated by the lack of what they consider germane or pertinent issues.

To overcome this skepticism, people have to be brought into the preservation movement and educated as was done in the environmental movement. People have to think about the future in more than just a few days. The intangible value of a community solving its own problems over the long run is essential to successful preservation. If people are not involved with long range foresight, any preservation attempt is in danger. The Pittsburgh approach, with Arthur Ziegler, focuses on buildings that are both a continuing importance to the community and of historical value, combined with a

process of involvement and self-help. It generates concern, enthusiasm, action, and continued awareness in the community.

Preservation and the Poor

An example of poor blacks being moved out of an area because of rising property values and rents is Georgetown, Washington, D.C. A very old area, where blacks have lived since before the Civil War. In 1930, 40 percent of the population was black. Then the area was discovered by upper-class whites who were willing to pay handsomely for an association with history. By 1950, most blacks and poor whites had moved out.¹⁴⁹ Blacks view Georgetown as another example of whites deciding what is best for blacks. Blacks of today see "the need for and the imperative of black power with its tenet of self determination."¹⁵⁰

A difficulty of preservation in a poor area is where does the poor move after the rents have raised. Housing choices are decreased for people on the bottom end of the income scale. The white middle and upper class already have many more choices for housing and have been given more in the example of Georgetown. Preservationists must be aware of this problem and work closely with local housing authorities to alleviate it.

There is another objective that even the traditional preservationist would have to consider: Does an historic area actually need historic preservation if part of its past culture and heritage is moved out? In the case of Georgetown, the blacks played a major role in its history, but they have been excluded in its preservation. What can be concluded is:

Much preservation in the Georgetown style more accurately reflects desires to profit and to provide a new era for white residents near the city core than a concern for history. A genuine concern for history would not countenance a course of action designed to distort that very history. A concern for social implications of a restoration project would compel the participation and involvement of the blacks presently residing in historic neighborhoods in any preservation activities affecting the neighborhood.¹⁵¹

In Michael de Haven Newson's article "Blacks and Historic Preservation," he suggests solutions to the problems discussed above. He discussed ways for blacks to influence preservation projects. First, he summarized the private enterprise project.

The central elements of this type of project can be briefly summarized. A real estate developer or speculator may have been inspired by the local preservationists who have concluded that the neighborhood in question has fundamentally attractive qualities. The developer, appropriately fortified, proceeds to purchase a large portion of the land. He will probably obtain the aid of the building department or other appropriate governmental agency as a means of "stimulating" the present owners to sell. After acquiring title, the developer will proceed to obtain financing for the actual restoration and, upon completion of the restoration, will sell the restored unit at a high price to a white family. The developer would steadfastly maintain, of course, that he would sell to anybody, but there do not happen to be many blacks who can meet his price.

The black response to this scenario will depend in large part on their political power. The specific tactics available fall into two major categories: those that require relatively little political power and those that require a great deal. When blacks will gain a great deal of political power is a matter of some debate. Realistically, it has to be conceded that they may never get as much power as they want. But the potential for acquiring some degree of political power is great.¹⁵²

Blacks can refuse to cooperate if they have political clout. They can say no to developers who want to buy their property. Blacks could influence preservation projects if money were available to them through mortgage insurance and direct federal loans. This would permit them to fix up their property without private enterprise moving them out. Another solution, which concerns all preservationists,

is some way of controlling restoration costs. "Sweat" equity is one thing that could promote this, but it would mean training programs for unskilled people so they could fix up their own homes. Last, nonviolent protest through picketing or other negative publicity tactics could affect politically sensitive participants and donors.

If the black and poor get involved in politics, they could attempt to decentralize governmental functions. A neighborhood agency could take over a lot of the planning functions of the city government, so the property of a particular restoration project would be determined by the neighborhood. The neighborhood could predetermine how many low-income residences should be provided, and if the standards are not upheld, building permits could be denied.

Two recent cases are particularly relevant. In SASSO v. Union City, the Ninth Circuit identified an affirmative obligation on the part of the city to respond to the demand for low-cost housing:

Given the recognized importance of equal opportunities in housing, it may well be, as a matter of law, that it is the responsibility of a city and its planning officials to see that the city's plan as initiated or as it develops, accommodates the needs of its low-income families, who usually--if not always--are member of minority groups (424 F. 2d 291, 295-96, 9th Cir. 1970).

In DeSimone v. Greater Englewood Housing Corporation (269 A. 2d. 31, 56 N.J. 428 (1970)) the question was whether a variance granted to build low-income housing in a white neighborhood could be sustained. A New Jersey statute required that variances be granted only for "special reasons." The local board of adjustment attempted to satisfy this requirement by reciting in considerable detail the housing needs created by overcrowding and blight in the black neighborhoods of the city. The New Jersey court held that:

As matter of law in the light of public policy and the law of the land, that public or, as here, semi-public housing accommodations to provide safe, sanitary, and decent housing, to relieve and replace substandard living conditions or to furnish housing for minority or underprivileged segments of

the population outside of ghetto areas is a special reason adequate to meet . . . (the statutory standard) and to ground a use variance (267 A. 2d, at 38-39, 56 N.J. at 442).

It has long been accepted that the development of low-income housing is a proper governmental concern. The implication of the recent decisions is that the pressing need for that housing may allow governmental units to give it a high priority even at the expense of more traditional values.¹⁵³

A group in Pittsburgh are actually trying to address the problems of the poor and preservation. This activist historic preservation organization is named the Pittsburgh History and Landmarks Foundation and is led by Arthur P. Ziegler, Jr. The movement in Pittsburgh has evolved out of the dichotomy that the poor are moved out by people with money. Ziegler's unique historic districts program tries to utilize historic preservation of houses as a way to renew the civic pride of people who live in the area and to involve them in the restoration activity rather than dislocating them. This is a community action approach to the architectural restoration of an area and has been working, but with slow progress.

The misfortune of preservation is that its efforts are on a crisis by crisis situation. In order to make their contribution, preservationists must learn to begin with principles rather than issues. The first duty of a preservation group is to inform a community of its indigenous architectural values. These values should include districts and the structures within them. The aesthetic qualities and usefulness of districts should be fully described. Second, preservationists must start their organization before they need to fight. Positive accomplishments that serve the entire

community should be their goal. They are best obtained through ongoing programs rather than a crisis by crisis battle.¹⁵⁴

Ziegler believes that inhabitants of the most ruinous slums have as much right to enjoy that architectural past as do the most affluent of Pittsburgh's citizens. He is dedicated to finding an alternative to demolition and dispersion. The first priority is to restore the social fabric and the second priority is to restore the physical form. An example of this concern occurred when a proposed half million dollar community center was researched by Ziegler as to its community benefit. It was found out that the center was not what the neighborhood youth wanted to keep them off the streets at night. Existing community facilities and their buildings were all that were required. The youth wanted to use the bowling alley one night a week, the pinball place one night a week, and the Catholic gym three nights. At \$5000 a year, peace was restored and existing buildings saved.¹⁵⁵

The Question of Historic Districts and Neighborhood Conservation

In recent years, historic districts and neighborhood conservation as issues have been growing together as a result of the desire and need to preserve or conserve areas of our cities. These areas are aesthetically and socially viable. In 1973, the Task Force on Land Use and Urban Growth suggested that the National Register of Historic Places be expanded to include conservation areas under a new category. This new category would be defined as "urban districts with mixed uses, vital street life, and physical integrity."¹⁵⁶

The Council of Environmental Quality recently reported that three types of urban neighborhoods should be preserved: neighborhoods of long standing with some unique quality, long standing ethnic neighborhoods, and historic areas.

The National Register of Historic Places until recently defined a "historic district as a geographical area with a concentration of sites, buildings, structures, or objects unified by past events, a plan, or physical development."¹⁵⁷ The National Register does minimally protect historic areas affected by federally funded or licensed projects. Recently, they came out with new standards in which a district can be made up of several different parcels of land with noncontiguous boundaries. The logic and reasoning behind this decision appears weak. It seems that this definition of a district weakens what little control there was with the National Register nomination. This new standard combined with the criteria already in effect are too restrictive. They are designed to focus on individual structures of outstanding architectural or historical significance. What about livability and use? Are these not important also? Should they not be considered as criteria?

The type of districts that have been placed on the National Register up to now, for the most part, have not been in cities. They mainly range from small rural towns to mining towns, or to early farm settlements. A change must be made to the restricted definitions of the National Register nominations for historic districts. Elitist attitudes and values have led to recognizing the home of the industrialist but not the collective residences of the working class.

The designation of a historic district conservation area should include the following criteria. Vitality, along with attractiveness and utility are the main criteria. The area should have a number of different types of activities related to residence, shopping, recreation, jobs, and education. The district should be evaluated on how the whole area and its residents contribute to the city's development. Finally, a central activity which made the area develop such as a mill, brewery, central market or wharf should be included.

People are starting to think in the above way for definition and standards to apply to areas of our cities. The San Francisco Urban Design Plan strongly advocates the conservation of areas which may not contain individual buildings that are historic or otherwise outstanding, but have a special character worth preserving. These areas contain an unusually fortunate relationship of building scale, landscaping, topography, and other attributes that makes them indispensable. As Michael Seelig said in Time Present and Time Past:

More attention is being paid to intrusion into neighborhoods, in the forms of unsympathetic architecture as well as visual, noise, traffic and air pollution disruptions. Citizens have always been concerned with improving their surroundings and while historic preservation once emerged as a specialized and limited aspect of this concern, today it is part of a general movement for environmental conservation.¹⁵⁸

Is Establishing Historic Districts Enough?

The above section concentrated on designation of conservation areas. An interesting question arises as to whether designation alone can reverse the decline of an urban neighborhood. There are two reasons why a district might reverse because of designation. First, designation could give credibility to the area so loans would

be more available at a lower interest rate or available at all. Second, the designation may stop the influx of incompatible uses which start to destroy the character. The designation along with community promotion of a district may help create a sense of community which it lacked before. The designation may act as a catalyst. Fixing up a neighborhood is a psychological phenomenon as well as an economic one.

In a declining neighborhood each individual homeowner has a dilemma when deciding to improve his/her housing situation. The choice is to stay and improve one's existing residence or to make the improvement through a location change. Property values play an important role in this decision. If property values are on a decline, it is best and a safer investment for the owner to sell and buy someplace else. The creation of this forced mobility is wasteful and unneeded.

But designation by itself does not guarantee that a neighborhood will not decline. There are other factors that play a role in that outcome; locational factors of where the area is in relationship to employment centers, stores, schools, etc.; the social status of the neighborhood; the trend of growth; and the age of the buildings.

Besides the above factors, which would be different with each district, there are the legal and economic tools applicable to districts. These were talked about in chapters three and four. They can be used in many different ways and combinations to achieve some preservation. Since each situation to which they can be applied will be different, it is important to use a combination of legal and

economic tools in a way that will be acceptable. It is impossible to try to designate which ones are best because that will change with each district. An important aspect is to put them into a planning, environmental, and social review framework.

Historic Districts and Preservation Integrated Into
Planning, Environmental, and Social Considerations

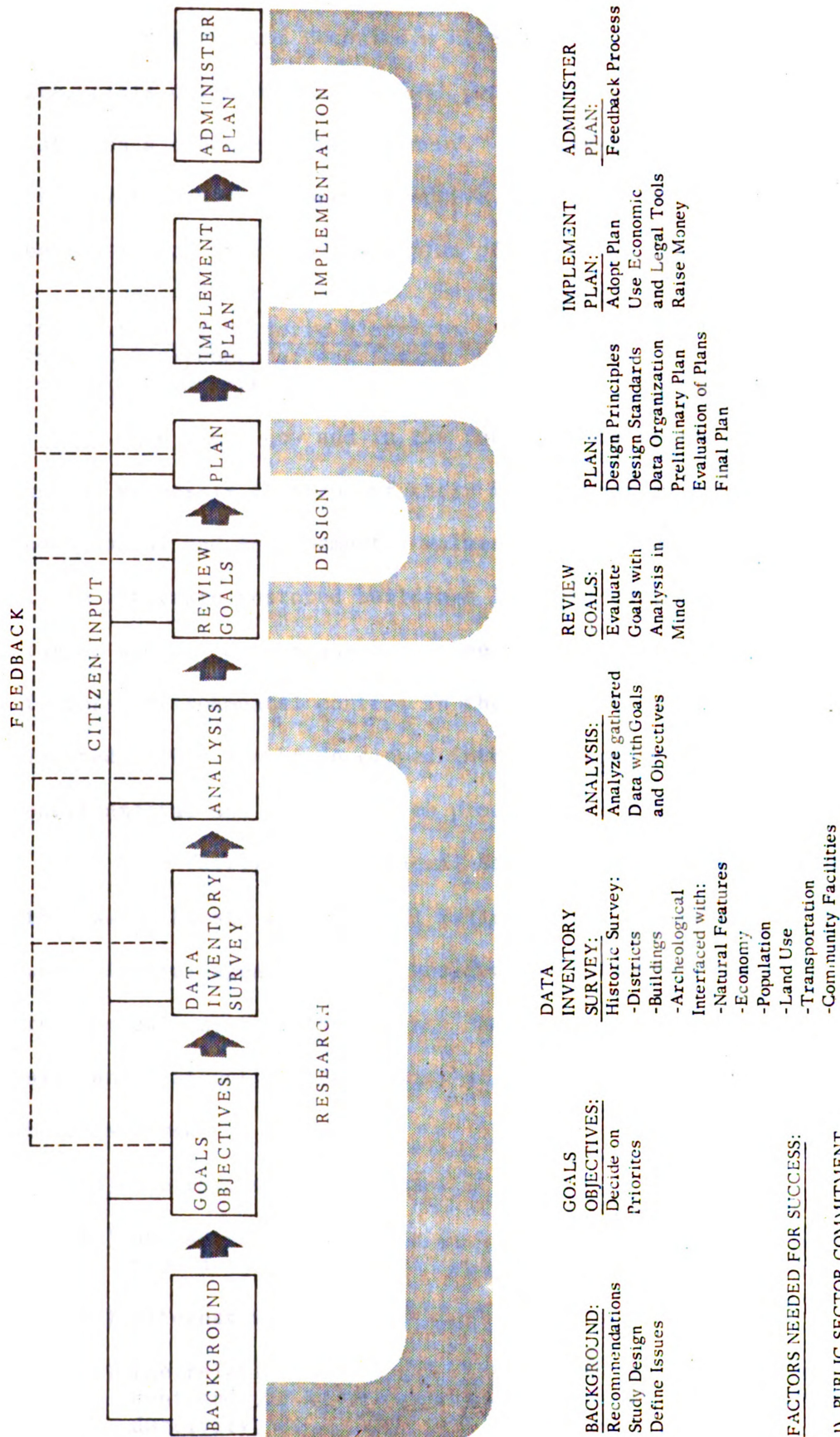
Preservation is part of a greater reconsideration of land use practices and the origins of the rights to use land. Preservation is part of urban conservation needs which are growing in our cities. Preservation laws have to be stronger than "stopgap devices such as landmark designations."¹⁵⁹ Historic preservation programs must be more effective, and the planning process must assume a stronger role in preservation. The legal mechanisms used currently are not adequate and offer only a partial solution.

Most of the traditional tools for preservation have been used as a response to a threat of redevelopment and demolition. Preservation of historic districts and landmarks need to be given exposure as a viable part of design and city growth and removed from the realm of a crisis by crisis orientation. In earlier chapters public and private legal tools and economic tools were discussed. These are not inadequate concepts. They have to be placed into a different type of administrative framework which will integrate them into the thinking of land use planning, resource management, and social planning. Preservation should become a legally required consideration in physical planning, impact analysis, and social planning to expand the preservation possibilities of districts.

Planning and Historic Districts

A historic district designation and ordinance will not automatically make or restore a historic area. To help the preservation of an area it should be incorporated into the planning process. City planning and historic preservation planning, as processes, are identical. First, get the community involved. Second, do a background and study design. Third, define or determine one's goals and objectives. Fourth, research or survey the existing conditions and facts as they pertain to the objectives stated. Fifth, analyze the facts gathered in relation to the newly established principles and standards. Sixth, re-examine goals and objectives. Seventh, develop a plan. Eighth, implement the plan. Ninth, at various times evaluate the plan and its implementation (administration). In each step the citizens of the areas should be involved. Assuming the required studies and analysis of the historic areas are carried out, specific plans should be made for each district (see Figure 2).

Historic preservation should become one of the elements in the general plan and it should be incorporated into the other elements: economic base, land use, zoning, transportation, and community facilities. In the economic base section the overall economic effect of the preservation program of the community could be analyzed. Land use and zoning can be looked at to see how the historic districts fit into the whole city. Future major transportation routes and circulation problems within and around historic districts can be addressed in the transportation element. Historic districts and their need for various facilities can be addressed in the community facilities section.



Preservation Planning Process

Figure 2

Preservation techniques have failed in the past because they are crisis oriented and the full potentials of these techniques have not been a concern of the planner. The piecemeal approach to historic preservation has not been effective. Preservation techniques have to be considered in the overall plan of the community.

Integration of Historic Districts
Into An Environmental and Social
Analysis Framework

The trend now and in the future is to review and judge development proposals in terms of their impact upon an entire network of both social and environmental values. The aim of historic preservation is to integrate restored buildings into the environment as part of a larger whole. Some means has to be developed for achieving satisfactory environmental control in the community where buildings are located. This can be developed into the legal system through an environmental and social review process.

Two fairly recent Federal Statutes have started us thinking this way. First, the National Environmental Policy Act of 1969 (NEPA) where federal agencies must consider the following issues in their recommendations for other agency actions and for legislation, "significantly affecting the quality of the human environment." Issues to be considered:

- (a) the environmental impact of the proposed action,
- (b) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (c) alternatives to the proposed action,
- (d) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity,

- (e) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.¹⁶⁰

Second, in 1966, Congress established a procedure for the review of projects that were connected with buildings, sites, objects, and districts on the National Register of Historic Places. This provision came under the National Historic Preservation Act of 1966. The Advisory Council on Historic Preservation, created by the National Historic Preservation Act, is the administrative body who is to review the projects where federal money and licenses are involved and properties within the projects are on the National Register.

These statutes are attempting to preserve the options available for future generations. The objectives of an environmental statement or review is to provide a means for giving environmental quality careful and appropriate consideration in the planning and decision process. Environmental quality should have a broad definition for historic preservation purposes that includes social factors for consideration in preserving a historic district.

The courts to this date have limited their environmental impact in the National Historic Preservation Act and the National Environmental Policy Act to only those properties on the National Register. This is too limited a view. The criteria of the National Register are too strict. State and locally important districts and properties should be part of the review process. Hopefully, the courts will take the broader view in the future that nonregistered property is protected under the National Environmental Policy Act. This is not meant to save any old building. This is directed mainly

at those viable historic conservation districts. Another important consideration in the review process is social considerations.

Sociological considerations are important because the creation of a historic district is not always beneficial to all residents in the area. Preservation of an area can greatly change the socio-economic characteristics as well as the physical characteristics. In proposing a historic district ordinance and preservation plan, one should carefully include into the implementation and planning those working and living in the proposed area. They should not be displaced, but they should be part of the process. An environmental/social impact analysis with broad and progressive criteria should consider the problem.

We are going to find each other--we who are searching for the right way of living the truth and the peaceful way of harmony with each other and with nature We are all part of it, we cannot break away from it

T. Banyasya, a Hopi

CHAPTER VII

CONCLUSIONS

Throughout this thesis an attempt has been made to explore the basis for future preservation planning and practices related to historic districts. A history of the preservation movement was developed to describe how the concept of historic districts was created. Next, characteristics of historic districts were described. Then economic and legal mechanisms for preservation were discussed as they exist today. The specifics of historic districts were then detailed to analyze, explore, and explain the problems, impacts, cautions, and implications of historic districts.

Preservation Evolving Into An Environmental and Social Context

The preservation origins were truly a grassroots effort. It spontaneously evolved throughout the nation as an interest activity of amateurs. No national organization coordinated preservation efforts until 1949 when the National Trust was formed. Local preservation efforts were hurt by the lack of coordination, professional knowledge, governmental assistance, and national leadership.

At the same time, the emphasis on individual historic buildings was patriotically too narrow. The next structures to be preserved were of individual architectural importance representing the rich

and forgetting the majority of the working class. Then in the 1930s historic areas or districts became important. The definition of historic districts at this time was limited and narrow. Areas of some cities which were lucky enough not to be destroyed by the changing patterns of American urban life were considered important to preserve and were treated as museum pieces. Examples are Vieux Carre, New Orleans; Savannah, Georgia; and Charleston, South Carolina.

Over the years preservation became more acceptable to the government. The government became more involved and was spurred on by the frantic calls of local preservation efforts. But the government made mistakes. Through attempts at urban revitalization such as urban renewal, city and federal authorities learned that the bulldozer mentality of completely clearing and destroying areas of the city and building anew does not work. ^{Should be} ~~It was realized that restoration,~~ conservation, and preservation of city areas was a more humane approach and more acceptable to the general public. Conservation, restoration, and preservation were acceptable because they worked to aesthetically improve an environment with a minimum amount of social disruption.

Conservation and preservation of historic districts are slowly being integrated into the decision-making process. The creation of the National Preservation Act of 1966 made preservation an important part of governmental policy. The National Environmental Policy Act of 1969 (NEPA), as currently interpreted by the courts, reviews projects that use federal dollars or licenses and includes National Register properties. The environmental conservation and review of the built environment, including historic districts, lags

behind the environmental review of natural environments. There are two reasons for the limited review of historic districts as part of the environmental review process. First, the current court interpretation of environmental review of historic districts allowing only National Register districts to be reviewed. Second, the limited definition of what constitutes a historic district by the National Register program.

The common denominator of the environmental and preservation movement is that environmentalists, historic preservationists, and conservationists are all concerned with protecting outstanding visual features in our environment. The relative newness of city governments getting involved with the total urban environment, including both the natural as well as man-made qualities, is a result of the above mentioned common denominator.

Cities are in different stages of conserving/preserving their environments. Some are still defining their visual assets, others are educating people of those assets, and still others are developing legal and economic mechanisms to ensure protection of valuable areas and scenic views. Some cities have implemented mechanisms to preserve certain historic areas while many are surveying and studying ways to implement conservation techniques which can apply to scenic views, entire neighborhoods, and natural assets. Actual experience of this type is very sparse and limited. New York City and Cincinnati are known as cities which have developed and adopted zoning techniques for preservation of defined areas and views.

The transition of historic preservation toward historic districts and amenity conservation has started to surface and be considered more often. Traffic, air pollution, noise, visual disruptions, and unsympathetic architecture are becoming concerns of residents in unique neighborhoods. People have always been concerned with their surroundings, but the type and degree of that concern has been changing.

The Poor and Preservation

In preserving historic districts in large cities there is a major dichotomy of preservation reality in the displacement of the poor. Preservation of an area results in the rising of property values and rents forcing the poor to pay or move. The middle and upper class who have many more choices for housing drive the poor out. There has been no solution to this problem except on a small level. One group, as mentioned, the Pittsburgh History and Landmarks Foundation led by Arthur P. Ziegler, Jr. has been trying to deal with this problem. By involving the existing residents in the planning, restoration, and financing process, the group has been successful in keeping the poor in restored areas.

The majority of the time the poor residents are not considered. They are brutally eased out and displaced like the victims of urban renewal. The problem of moving out the poor by people with more money is a major concern of area preservation. This problem needs further exploration and would be a good topic to study in the future, even though the urgency is now.

Community Support Essential

For any preservation effort to be successful, community support is required. A basic interest has to be there and then expanded upon. The community must be convinced that the preservation of a particular historic district will benefit the community. The community has to be a part of the planning process to engrain the effort into the community. Information that is clear, descriptive and informative is needed throughout the community.

The social process to achieve increased public involvement needs expanding as an essential adjustment for the preservation movement. Conditions under which preservation organizers have worked are changing and will continue to change in the future. The preservation movement can be part of the social process in which communities are trying to confront the increasing rapid change of our world. Some people are suffering from "future shock" and are trying to deal with it.

To preserve historic areas without long-range community support is impossible. A concerned public can keep an eye on its own preservation interests and keep up an information flow which is sorely needed. Large-scale preservation can only be achieved with institutional support for new directions in land use policies. Broad support is necessary to incorporate the environmental and preservation effort into national level policy changes.

Each District Is Different and Dynamic

Within the process of preserving historic districts, one must remember that they are all different and dynamic. All historic

districts being different, creates a situation where each one must be studied and the preservation strategy for each developed separately. Historic districts take on the characteristics of the past in each region and city in our country. Cities and states all have different preservation laws for dealing with the problems of their respective historic districts. Historic districts are dynamic. This change and development is not wrong unless it upsets the character and aesthetics of districts. Historic districts, whether residential, commercial, industrial, mixed use or rural, have certain aspects that make them unique and worthy of preservation.

Zones of Transition Around Historic Districts

One of the major problems of historic districts is the development which occurs in the area immediately surrounding the boundaries of the district. There are usually no controls in this transition zone that makes development sensitive to the character of the district. Transition zone development threatens the district's viability, uniqueness and character. The edges of the district are slowly eroded by high rises, gas stations, supermarkets, etc. There is a need for land use and aesthetic controls in the transition zone. These controls should not be as strict as the district controls, but should be effective enough to stop the district edges from slowly effecting the core of the district. Zones of transition would be a good topic for future research.

Creating Conservation Areas Which Have Viable
Ethnic or Community Growth Significance
(Or, The Definition of Historic
Has Been Too Narrow)

The definition of "historic" up to now has been too limited and narrow. The National Register has to expand its criteria as to what makes a historic district. The creation of conservation areas should include viable ethnic areas, areas which were significant in the city's development and growth, unique aesthetic and visual areas (unique views), and areas which are unique because of their development.

The historic district can be used as a tool to create conservation areas which have their own identity and characteristics. There are many districts existing right now in many cities that just need to get exposure which would start them on their way to preservation. Then the economic and legal mechanisms combined with community and public support will keep a part of the environment worth saving.

Legal Mechanisms

The legal mechanisms for preservation confront the laissez-faire attitudes of citizens towards governmental regulation of private property rights. The trend in recent years to more governmental control has strengthened the preservation movement. The courts interpretation to regulate property with aesthetics as the main criteria has broadened preservation and conservation powers. People cannot arbitrarily utilize their land. One has to take the community welfare into consideration. On the governmental control side, the courts

allow government the right to use police power to regulate land use as long as their regulations are "reasonable."

Historic district ordinances are a tool to regulate the environment and architecture under police power. The use of such a tool is an indication of the lack of basic knowledge of visual design and perception in our culture. It shows the pre-eminence of the rights of property-owning over the rights of the public good. The need for legislation and legal mechanisms to deal with subjective parts, such as an ambience and aesthetics, is an unfortunate aspect of our society.

Historic Districts Need to be a Self-Supporting Economic Benefit to be Feasible

In the long run, historic preservation will be one of economic feasibility rather than one of historic, aesthetic, and legal feasibility. An economically sound restoration will carry much more weight with a developer or a planning and zoning commission than the combined arguments of historical significance, continuity, and outstanding architectural features.

In Chapter Four, economic mechanisms and considerations for preservation were described. A combination of the suggested mechanisms to accomplish preservation can be applied to different districts and expanded upon to meet changing economic conditions and demands. At the same time new methods have to be developed to help with ever increasing destruction pressures. A general underlying concept throughout this thesis is that the fight against the forces opposed to preservation is worth the benefits accrued through such a struggle.

The main forces against preservation are the indifferent opinions towards the "best" use of the land, the lack of information, economic pressures, past governmental failures, and the lack of a comprehensive planning approach.

Preservation Should Be Incorporated Into An
Environmental Impact and Social
Review Process

At present, the preservation effort is not as developed as the environmental effort. People are slowly becoming aware that a total conservation effort, including preservation of man-made objects and natural areas along with environmental concerns, is important. The common concerns of preservation and environmental efforts of creating a better world to live in are bringing the movements together.

Social considerations are important because the creation of historic districts often displace poor residents as mentioned earlier. Social considerations should include involving residents into the planning process which would hopefully create community support and valuable input. When creating a historic district, an analysis should be made reviewing possible social effects whether they are beneficial or harmful.

Planning and Historic Districts

To preserve a historic district the process must be incorporated into the community's planning efforts. Historic preservation should become one of the elements of the comprehensive plan and considered in all elements of the process. A historic district's preservation takes many different participants to succeed. These

different participants should be from federal, state, and local government and the citizens of the district. There is a need to interface the activities between the different participants. It is common for each participant to work separately without any idea of what the other is doing. This wastes a lot of money and time and is ineffective.

Preservation techniques have failed in the past because they are crisis orientated and the full potentials of these techniques have not been a concern of the planner. Preservation techniques have to be considered in the overall plan of the community.

A Call For the Urgency of Preservation

Preservation of historic districts is important for a number of reasons. Aesthetically and socially they have been seen as a better alternative than the suburbs. We have limited natural resources and should use what we have now to its fullest potential. People put important values on objects of antiquity because they represent their roots and heritage.

Within this framework of need, it is also important to save the districts which contain buildings less than historic. They also represent a cohesiveness for those looking for stability in their environment. Development happens so quickly these days that people lose orientation to their environment.

In sum, there are many different types of historic districts and each has to be handled separately because of their uniqueness. Historic districts have to be an economic benefit and self supporting. The preservation of historic districts has to be incorporated into a

comprehensive planning and environmental impact review. The definition of "historic" has been too narrow and has to be expanded before our viable man-made areas are destroyed. Community support is mandatory for preservation of historic districts to be preserved. We must learn from our past mistakes so that we can conserve the unique areas which are remaining.

FOOTNOTES

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¹C. Page, "Saving Places for People," Progressive Architecture, November 1972, p. 70.

²John J. Costonis, Space Adrift: Landmark Preservation and the Marketplace (Urbana: University of Illinois Press, 1974), p. 4.

³Preservation and Rehabilitation of a Historic Commercial Area, New Bedford, Massachusetts (Newport, Rhode Island: The Urban Design Group), p. 16.

⁴Richard H. Brown, "Overview and Evaluation of Current Historic Preservation Methods and Techniques" (Master's Thesis, University of Massachusetts, 1973), p. 3.

⁵Frank B. Gilbert, "Precedents for the Future," Law and Contemporary Problems 36 (Summer 1971): 312.

⁶Laurence S. Cutler and Sherrie S. Cutler, Recycling Cities for People: The Urban Design Process (Boston, Massachusetts: Cohners Books International, Inc., 1976), p. 67.

⁷"Looking Forward to the Past," Progressive Architecture, November 1976, p. 45.

⁸Costonis, Space Adrift, p. 4.

⁹Grady Gammage Jr. et al., Historic Preservation in California, A Legal Handbook (Stanford Environmental Law Society, March 1975), p. 3.

¹⁰Terry J. Tondro, "Symposium Perspectives on Historic Preservation," Connecticut Law Review 8 (Winter 1976): 200.

¹¹Charles B. Hosmer Jr., Presence of the Past: A History of the Preservation Movement in the United States Before Williamsburg (New York: G. P. Putnam's Sons, 1965), p. 24.

¹²Ibid., p. 41.

¹³Ibid., p. 77.

¹⁴A good source of information on the ten years prior to the Centennial celebration and the celebration is J. B. Jackson's, American Space.

¹⁵Hosmer, Presence of the Past, p. 80.

¹⁶Ibid., p. 102.

¹⁷Ibid., p. 114.

¹⁸Ibid., p. 269.

¹⁹Ibid., p. 271.

²⁰Thomas H. Seidel, "Limitations and Potentials of a Regional Planning Agency Initiating the Implementation of Historic Preservation Plans at the Local and Regional Levels: A Case Study in the South-eastern Connecticut Planning Region" (Master's Thesis, University of Rhode Island, 1975), p. 25.

²¹Mavis Bryant, Zoning for Community Preservation: A Manual for Texans (Austin, Texas: Texas Historic Foundation, February 1976), p. 6.

²²Ibid., pp. 5-6.

²³William J. Murtagh, "Defining a Historic Building and District," Preservation and Building Codes (Washington, D.C.: The Preservation Press, National Trust, 1975), p. 3.

²⁴National Trust for Historic Preservation, A Guide to Delineating Edges of Historic Districts (Washington, D.C.: The Preservation Press, National Trust, 1976), p. 23.

²⁵National Historic Sites Act of 1935, 16 U.S.C. 462.

²⁶Gammage, Historic Preservation in California, p. 24.

²⁷Ibid., p. 24.

²⁸Robert H. McNulty and Stephen A. Kliment, Neighborhood Conservation (New York: The Whitney Library of Design of Watson-Gaptill Publications, 1976), p. IV/99.

²⁹Ibid.

³⁰Department of Transportation Act of 1966, 23 U.S.C. 138, 49 U.S.C. 1653(f).

³¹Gammage, Historic Preservation in California, p. 88.

³²National Environmental Policy Act of 1969, 42 U.S.C. 4321.

³³Executive Order 11593 (May 13, 1971) was given by President Nixon under the authority of the Antiquities Act of 1906, the National Historic Site Act of 1935, the National Historic Preservation Act of 1966, and the National Environmental Policy Act of 1969.

³⁴Gammage, Historic Preservation in California, p. 26.

³⁵William K. Reilly, The Use of Land: A Citizen's Policy Guide to Urban Growth (Thomas Y. Crowell Co., 1973), pp. 195-196.

³⁶Gammage, Historic Preservation in California, p. 25.

³⁷"Ford Signs 4 Preservation Bills," Preservation News, November 1976, p. 1.

³⁸Ibid., pp. 1 and 3.

³⁹Ibid., p. 3.

⁴⁰Nathan Glazer, "Slum Dwellings Do Not Make a Slum," The New York Times Magazine 21 (November 1965), p. 55.

⁴¹George A. Reif, "Old Salem, North Carolina and the Preservation Movement: A Case Study of a Community's Decision to Preserve Its Historic Fabric" (Master's Thesis, University of North Carolina, Chapel Hill, 1966), p. 25.

⁴²Tunnard and Pushharen, Man Made America (New Haven: Yale University Press, 1963), p. 421.

⁴³John R. Baggs, "Historic Preservation in the United States: Illustrated with Selected Programs" (Master's Thesis, University of Oklahoma, Norman, 1967), p. 33.

⁴⁴Ibid., pp. 33 and 39.

⁴⁵"Historic Preservation via Urban Renewal," Journal of Housing 10 (August 1962): 298.

⁴⁶"Bulldozers, Spare Those Treasures," Detroit Free Press, 4 February 1977, Editorial page.

⁴⁷City Plan Commission, College Hill: A Demonstration Study of Historic Area Renewal (Providence, Rhode Island: College Hill Press, 1967), p. vi.

⁴⁸Ibid., p. v.

⁴⁹"Historic Preservation via Urban Renewal," Journal of Housing, p. 297.

⁵⁰Albert B. Wolfe, "Conservation of Historic Buildings and Areas," Planning 1964 (Chicago, Illinois: ASPO, 1964), p. 213.

⁵¹Kerr, American Institute of Architects Journal, p. 37.

⁵²McNulty and Kliment, Neighborhood Preservation, pp. 48-49.

⁵³Ibid., p. 49.

⁵⁴Terry J. Tondro, "An Historic Preservation Approach to Municipal Rehabilitation of Older Neighborhoods," Connecticut Law Review 8 (Winter 1976): 251.

⁵⁵National Trust, A Guide to Delineating Edges, p. 7.

⁵⁶Kevin Lynch, The Image of the City (Cambridge, Massachusetts: The M.I.T. Press, 1960), p. 48.

⁵⁷Ibid., p. 67.

⁵⁸Ibid., p. 68.

⁵⁹Ibid.

⁶⁰National Trust, A Guide to Delineating Edges, p. 21.

⁶¹William J. Murtagh, "Aesthetics and Social Dimensions of Historic Districts," Historic Districts: Identification, Social Aspects, and Preservation (Washington, D.C.: The Preservation Press, National Trust, 1975), p. 9.

⁶²Historic Districts: Identification, Social Aspects, and Preservation (Washington, D.C.: The Preservation Press, National Trust, 1975), p. 3.

⁶³Ibid.

⁶⁴G. C. Argan, "A Policy for the Preservation of Historic Centers," Historic Districts: Identification, Social Aspects, and Preservation (Washington, D.C.: The Preservation Press, National Trust, 1975), p. 17.

⁶⁵United States Department of Housing and Urban Development, Historic Preservation Plan: For the Central Area General Neighborhood Renewal Area, Savannah, Georgia (Washington, D.C.: U.S. Government Printing Office, 1973), pp. 12-17.

⁶⁶National Trust, A Guide to Delineating Edges, p. 9.

⁶⁷Murtagh, "Aesthetics and Social Dimensions of Historic Districts," pp. 11-12.

⁶⁸National Trust, A Guide to Delineating Edges, pp. 13-14.

⁶⁹Ibid., p. 15. ⁷⁰Ibid., p. 16.

⁷¹Ibid., pp. 16-17.

⁷²Lynch, Image of the City, p. 4.

⁷³Lecture of Rupler Cutler, Michigan State University, East Lansing, Michigan, 22 November 1976.

⁷⁴Gammage, Historic Preservation in California, p. 5.

⁷⁵Ibid.

⁷⁶Jacob H. Morrison, Historic Preservation Law (Washington, D.C.: The Preservation Press, National Trust, 1974), p. 20.

⁷⁷Ibid. ⁷⁸Ibid., p. 21. ⁷⁹Ibid.

⁸⁰Ibid., pp. 35-36. ⁸¹Ibid., p. 23.

⁸²Ibid., pp. 26-27.

⁸³Berman v. Parker, 75 S. Ct. 98.

⁸⁴Morrison, Historic Preservation Law, p. 28.

⁸⁵ Ibid., p. 35.

⁸⁶ Ibid., p. 41.

⁸⁷ Ibid., p. 44.

⁸⁸ Ibid., p. 47.

⁸⁹ Ibid., p. 48.

⁹⁰ Ibid., p. 49.

⁹¹ Ibid.

⁹² Ibid., p. 51.

⁹³ Gammage, Historic Preservation in California, p. 6.

⁹⁴ Ibid., p. 10.

⁹⁵ Ibid., p. 11.

⁹⁶ F. Bosselman et al., The Taking Issue: An Analysis of the Constitutional Limits of Land Use Control (Washington, D.C.: Council on Environmental Quality, U.S. Government Printing Office, July 1973), p. 120.

⁹⁷ Gammage, Historic Preservation in California, pp. 11-12.

⁹⁸ Bosselman, The Taking Issue, p. 134.

⁹⁹ Ibid., p. 136.

¹⁰⁰ Joseph L. Sax, Defending the Environment: A Strategy for Citizen Action (New York: Alfred A. Knopf, 1971), p. 158.

¹⁰¹ Ibid., p. 159.

¹⁰² Gammage, Historic Preservation in California, p. 31.

¹⁰³ Ibid.

¹⁰⁴ Ibid., p. 33.

¹⁰⁵ Notes, "Land Use Controls in Historic Areas," Notre Dame Lawyer 44 (February 1969): 380.

¹⁰⁶ Maryland Historical Trust, Preservation Easements (Annapolis, Maryland: The Maryland Historical Trust, 1976), pp. 2-3.

¹⁰⁷ Gammage, Historic Preservation in California, p. 34.

¹⁰⁸ Russell L. Brenneman, "Techniques for Controlling the Surroundings of Historic Sites," Law and Contemporary Problems 36 (Summer 1971): 416, 418.

¹⁰⁹ Gammage, Historic Preservation in California, p. 37.

¹¹⁰Ibid., p. 40.

¹¹¹Ibid., p. 42.

¹¹²Ibid., p. 52.

¹¹³Michael F. Wiedl III, "Historic District Ordinances," Connecticut Law Review 8 (Winter 1976): 221.

¹¹⁴Gammage, Historic Preservation in California, p. 65.

¹¹⁵Ibid., p. 355.

¹¹⁶Lyn Dunsavage and Virginia Talkington, The Making of a Historic District: Swiss Avenue, Dallas, Texas (Washington, D.C.: The Preservation Press, National Trust, 1975), p. 27.

¹¹⁷Bryant, Zoning for Community Preservation, p. 8.

¹¹⁸Andrew Gold, "The Welfare Economics of Historic Preservation," Connecticut Law Review 8 (Winter 1976): 357.

¹¹⁹Bryant, Zoning for Community Preservation, pp. 8-9.

¹²⁰Dunsavage and Talkington, Swiss Avenue, p. 27.

¹²¹National Trust, A Guide to Delineating Edges, p. 18.

¹²²Ziegler, Historic Preservation in Inner City Areas, pp. 18-19.

¹²³Bryant, Zoning for Community Preservation, p. 10.

¹²⁴Ibid.

¹²⁵Ibid., p. 40.

¹²⁶Gammage, Historic Preservation in California, p. 9.

¹²⁷Ibid., p. 89.

¹²⁸Ibid., pp. 8-9.

¹²⁹Ibid., p. 85.

¹³⁰Murvan M. Maxwell, "An Architect's View of Preservation Within Existing Codes," Preservation and Building Codes (Washington, D.C.: The Preservation Press, National Trust, 1976), p. 36.

¹³¹Bryant, Zoning for Community Preservation, p. 40.

- ¹³²Gammage, Historic Preservation in California, p. 8.
- ¹³³Ibid., p. 46. ¹³⁴Ibid., p. 6. ¹³⁵Ibid., p. 68.
- ¹³⁶Ibid., p. 71. ¹³⁷Ibid., p. 75. ¹³⁸Ibid., p. 77.
- ¹³⁹Bryant, Zoning for Community Preservation, p. 70.
- ¹⁴⁰Ibid., p. 72. ¹⁴¹Ibid., p. 70.
- ¹⁴²Advisory Council on Historic Preservation, "Adaptive Use: A Survey of Construction Costs," Washington, D.C., Special Issue Report, June 1976, p. 22.
- ¹⁴³Ibid., p. 23.
- ¹⁴⁴Ziegler, Historic Preservation in Inner City Areas, pp. 30-31.
- ¹⁴⁵Ibid., p. 34. ¹⁴⁶Ibid., pp. 30-36.
- ¹⁴⁷Bryant, Zoning for Community Preservation, p. 73.
- ¹⁴⁸Costonis, Space Adrift, p. 50.
- ¹⁴⁹Michael de Haven Newsom, "Blacks and Historic Preservation," Law and Contemporary Problems 36 (Summer 1971): 423.
- ¹⁵⁰Ibid. ¹⁵¹Ibid., p. 424. ¹⁵²Ibid., p. 425.
- ¹⁵³Ibid., pp. 429-430.
- ¹⁵⁴Arthur P. Ziegler Jr., Historic Preservation in Inner City Areas: A Manual of Practice (Pittsburgh, Pennsylvania: The Allegheny Press, 1971), p. 63.
- ¹⁵⁵Ursula Cliff, "Arthur Ziegler: Prophet of Preservation for the Poor," Design and Environment, Summer 1975, p. 30.
- ¹⁵⁶Lawrence O. Houstoun Jr., "Defining What We Want to Save," Urban Land, July/August 1975, p. 24.
- ¹⁵⁷Ibid.

¹⁵⁸Michael Y. Seelig, Time Present and Time Past (City of Vancouver: Department of Social Planning, 1973), p. 69.

¹⁵⁹Gammage, Historic Preservation in California, p. 79.

¹⁶⁰Costonis, Space Adrift, p. 6.

¹⁶¹Lynch, Image of the City, pp. 47-48.

¹⁶²Tondro, Connecticut Law Review, p. 256.

¹⁶³Gammage, Historic Preservation in California, p. 38.

BIBLIOGRAPHY

BIBLIOGRAPHY

"A Community Surveys Its Historic Resources." Small Town, March 1975, pp. 17-22.

A Plan for the Conservation of Waterford. Waterford: Waterford Foundation Inc., 1973.

Argan, G. C., and Murtagh, William J. Historic Districts: Identification, Social Aspects, and Preservation. Washington, D.C.: National Trust for Historic Preservation, 1975.

Advisory Council on Historic Preservation. "Adaptive Use: A Survey of Construction Costs." Special Issue Report, Washington, D.C., June 1976.

Baggs, John R. "Historic Preservation in the United States: Illustrated with Selected Programs." Master's Thesis, University of Oklahoma, Norman, 1967.

Baldwin, Malcolm F. "Historic Preservation in the Context of Environmental Law: Mutual Interest in Amenity." Law and Contemporary Problems, Summer 1971.

Barnett, Jonathan. Urban Design as Public Policy: Practical Methods for Improving Cities. New York: McGraw-Hill Publications, 1974.

Berke, Arnold Michael. "Resident Attitudes Toward Change in an Historic Preservation District, A Study of German Village." Master's Thesis, Ohio State University, 1969.

Berman vs. Parker. 348 U.S. 26 (1954).

Biddle, James. "Historic Preservation is Getting Growing Attention from Federal, State, and Private Agencies." Journal of Housing, May 1971, pp. 219-227.

Biddle, James. "Historic Preservation: The Citizens' Quiet Revolution." Connecticut Law Review, Winter of 1975-76, pp. 202-208.

- Bosselman, F.; Callies, D.; and Banta, J. The Taking Issue: An Analysis of the Constitutional Limits of Land Use Control. Washington, D.C.: Council on Environmental Quality, United States Government Printing Office, July 1973.
- Brenneman, Russell L. "Historic Preservation Restrictions: A Sampling of State Statutes." Connecticut Law Review, Winter of 1975-76, pp. 231-247.
- Brenneman, Russell L. "Techniques for Controlling the Surroundings of Historic Sites." Law and Contemporary Problems, Summer 1971, pp. 416-422.
- Brown, Richard H. "Overview and Evaluation of Current Historic Preservation Methods and Techniques." Master's Thesis, University of Massachusetts, 1973.
- Bryant, James A. "The Role of State Programs, Urban Effects of Statewide Preservation Projects." Historic Preservation, January-March 1971, p. 37.
- Bryant, Mavis. Zoning for Community Preservation: A Manual for Texans. Austin, Texas: Texas Historic Foundation, February 1976.
- Building the Future From Our Past: A Report on the Saint Paul Historic Hill District Planning Program. Saint Paul, Minnesota: Old Town Restoration Inc., 1975.
- City of Providence Plan Commission. College Hill: A Demonstration Study of Historic Area Renewal. Providence, Rhode Island: College Hill Press, 1967.
- Cliff, Ursula. "Arthur Ziegler: Prophet of Preservation for the Poor." Design and Environment, Summer 1975, pp. 28-31.
- Collins, Robertson. "Progress and Profit Through Blending Past and Present." Small Town, March 1975, pp. 7-12.
- Cook, Louis. "Bulldozers, Spare Those Treasures." Detroit Free Press, 4 February 1977, Editorial Page.
- Costonis, John J. Space Adrift: Landmark Preservation and the Marketplace. Urbana: University of Illinois Press, 1974.
- Cutler, Laurence S., and Cutler, Sherrie S. Recycling Cities for People: The Urban Design Process. Boston, Massachusetts: Cohners Books International, Inc., 1976.
- Department of Transportation Act of 1966. 23 U.S.C. 138 and 49 U.S.C. 1653(f).

- Dukeminier, J. J., Jr. "Zoning for Aesthetic Objectives: A Reappraisal." Law and Contemporary Problems, Spring 1955, pp. 218-237.
- Dunsavage, Lyn and Talkington, Virginia. The Making of a Historic District, Swiss Avenue, Dallas, Texas. Washington, D.C.: The Preservation Press, The National Trust, 1975.
- Galbreath, Carol J. "Community Benefit from a Sense of History." Small Town, March 1975, pp. 4-7.
- Gammage, Grady, Jr., et al. Historic Preservation in California, A Legal Handbook. Stanford: Stanford Environmental Law Society, March 1975.
- Glazer, Nathan. "Slum Dwellings Do Not Make a Slum." The New York Times Magazine 21 November 1965, p. 55.
- Gold, Andrew. "The Welfare Economics of Historic Preservation." Connecticut Law Review, Winter of 1975-76, pp. 348-369.
- Goldstone, H. H. "Aesthetics in Historic Districts." Law and Contemporary Problems, Summer 1971, pp. 379-385.
- Gilbert, Frank B. "Precendents for the Future." Law and Contemporary Problems, Summer 1971, pp. 311-314.
- Gray, Oscar S. "The Response of Federal Legislation to Historic Preservation." Law and Contemporary Problems, Summer 1971.
- Hammond, Thomas Clark. "Planning for Preservation in Tennessee: Methods of Identification, Evaluation, and Utilization of Historical and Architectural Resources." Master's Thesis, University of Tennessee, 1969.
- "Historic Preservation via Urban Renewal." Journal of Housing 10 August 1962, pp. 297-315.
- Hosmer, Charles B., Jr. Presence of the Past, A History of the Preservation Movement in the United States Before Williamsburg. New York: G. P. Putnam's Sons, 1965.
- Houstoun, Lawrence O., Jr. "Defining What We Want to Save." Urban Land, July/August 1975, pp. 24-26.
- Jacobs, Stephen W. "A Current View of Area Preservation." American Institute of Architects Journal, December 1964, pp. 49-53.
- Johnson, Huey D. "The Role of Public Attitude and Involvement in the Preservation Movement." Connecticut Law Review, Winter of 1975-76, pp. 370-381.

- Johnson, Johnson, and Roy Inc. Marshall: A Plan for Preservation. Marshall, Michigan: Marshall Historical Society, 1973.
- Kelley, W. I. "New Orleans Historic Preservation and the Building Code." Preservation and Building Codes, Washington, D.C.: The National Trust, 1975.
- Kerr, Robert J. "Historic Preservation--A Pragmatic Approach." American Institute of Architects Journal, April 1964, pp. 36-38.
- Knight, Carleton, III. "Ford Signs 4 Preservation Bills." Preservation News, November 1976, pp. 1 and 3.
- Knott, Lawson B., Jr. "The Impact of Historic Preservation on Development and Land Use." Urban Land, July/August 1975, pp. 4-7.
- Loflin, John J. "Zoning and Historic Districts in New York City." Law and Contemporary Problems, Summer 1971, pp. 363-366.
- "Looking Forward to the Past." Progressive Architecture, November 1976, p. 45.
- Lowry, S. Todd. "An Economist's View of Preservation." Pioneer America, January 1976, pp. 28-35.
- Lynch, Kevin. The Image of the City. Cambridge, Massachusetts: The M.I.T. Press, 1960.
- Lynch, Kevin. What Time is This Place? Cambridge, Massachusetts: The M.I.T. Press, 1972.
- Maryland Environmental Trust. Conservation Easements. Baltimore, Maryland: Maryland Environmental Trust, July 1974.
- Maryland Historical Trust. Preservation Easements. Annapolis, Maryland: The Maryland Historical Trust, 1976.
- Maxwell, Murvan M. "An Architect's View of Preservation Within Existing Codes." Preservation and Building Codes. Washington, D.C.: The National Trust, 1975.
- McCahill, Peter J. "Saving a Neighborhood Through Historic Preservation." Journal of Housing, April 1976, pp. 169-170.
- McNulty, Robert H., and Kliment, Stephen A. Neighborhood Conservation. New York: The Whitney Library of Design, Watson-Gaptill Publications, 1976.

- Meehan, Edmund J., Jr. "Elements of Historic Preservation in Selected Center City Areas." Master's Thesis, University of Rhode Island, 1970.
- Miner, Ralph. Conservation of Historic and Cultural Resources. Washington, D.C.: ASPO.
- "Modern-Day Battle in the Nation's First Rural Historic District." Small Town, March 1975, pp. 23-24.
- Morrison, Jacob H. Historic Preservation Law. Washington, D.C.: The National Trust, 1974.
- Murphy, John. "The Special Nature of Historic District Zoning." Urban Land, July/August 1975, pp. 9-13.
- Murtagh, William J. "Defining a Historic Building and District." Preservation and Building Codes. Washington, D.C.: The National Trust, 1975.
- National Environmental Policy Act of 1969. 42 U.S.C. 4321-4347.
- National Historic Sites Act of 1935. 16 U.S.C. 461-467.
- National Park Service. How to Complete National Register Forms, The National Register Program. Washington, D.C.: Department of the Interior, National Park Service, No. 127.
- National Trust for Historic Preservation. A Guide to Delineating Edges of Historic Districts. Washington, D.C.: The National Trust, 1976.
- National Trust for Historic Preservation. "Factors Affecting Valuation of Historic Property." Washington, D.C.: Information Sheet from the National Trust, 1976.
- National Trust for Historic Preservation. "Historic District Ordinances--Landmarks Commission Ordinances." Washington, D.C.: Information Sheet from the National Trust, 1976.
- National Trust for Historic Preservation. "Neighborhood Conservation." Information Sheet from the National Trust, 1976.
- Newsom, Michael DeHaven. "Blacks and Historic Preservation." Law and Contemporary Problems, Summer 1971, pp. 423-431.
- Notes. "Land Use Controls in Historic Areas." Notre Dame Lawyer, February 1969, pp. 379-430.
- Page, C. "Saving Places for People." Progressive Architecture, November 1970, p. 70.

- Poinsett, David N. "Past and Present: Planning for Continuity." Small Town, March 1975, pp. 12-13.
- Preservation and Rehabilitation of a Historic Commercial Area, New Bedford, Massachusetts. Newport, Rhode Island: The Urban Design Group Inc.
- "Preservation of Landscapes in the United States." ASLA Bulletin, April 1975, pp. 1-12.
- Rasmussen, Paul W. "Planning and Historic Preservation, The Old Town Alexandria Experience." Planners Notebook, February 1973.
- Reif, George A. "Old Salem, North Carolina and the Preservation Movement: A Case Study of a Community's Decision to Preserve Its Historic Fabric." Master's Thesis, University of North Carolina, Chapel Hill, 1966.
- Reilly, William K. The Use of Land: A Citizen's Policy Guide to Urban Growth. New York: Thomas Y. Crowell Co., 1973.
- Sax, Joseph L. Defending the Environment: A Strategy for Citizen Action. New York: Alfred A. Knopf, 1971.
- Sayne, Paul. "Aesthetics and Property Values: Does Zoning Promote the Public Welfare?" American Bar Association Journal, June 1949, pp. 471-529.
- Seelig, Michael Y. Time Present and Time Past. City of Vancouver: Department of Social Planning, June 1973.
- Seidel, Thomas. "Limitations and Potentials of a Regional Planning Agency Initiating the Implementation of Historic Preservation Plans at the Local and Regional Levels: A Case Study in the Southeastern Connecticut Planning Region." Master's Thesis, University of Rhode Island, 1970.
- Shull, Joe A. "The Use of Tax Incentives for Historic Preservation." Connecticut Law Review, Winter 1975-76, pp. 334-347.
- Skolnik, Arthur M., and Wood, Edmund J. "Preservation Legislation for Pioneer Square Historic District in Seattle." Preservation and Building Codes. Washington, D.C.: The National Trust, 1975, pp. 41-45.
- Steinglas, Margaret. "Plan and Program for the Preservation and Re-Use of Historic and Architectural Landmarks in Hudson and Claverich, New York." Master's Thesis, Pratt Institute, Brooklyn, New York, 1970.

- Tondro, Terry J. "An Historic Preservation Approach to Municipal Rehabilitation." Connecticut Law Review, Winter of 1975-76, pp. 248-311.
- Tondro, Terry J. "Symposium Perspectives on Historic Preservation." Connecticut Law Review, Winter of 1975-76, pp. 199-201.
- Tunnard and Pushharen. Man Made America. New Haven: Yale University Press, 1963.
- United States Department of Housing and Urban Development. Historic Preservation Plan: For the Central Area General Neighborhood Renewal Area: Savannah, Georgia. Washington, D.C.: U.S. Government Printing Office, April 1973.
- Wall, Louis Samuel. "The Feasibility of Tax Credits as Incentives for Historic Preservation." Master's Thesis, George Washington University, 1972.
- Wharton, William G. "A Uniform Statewide Building Code with Provisions for Historic Buildings and Districts: The Code Official's View." Preservation and Building Codes. Washington, D.C.: The National Trust, 1975.
- Weinberg, Robert C. "Pitfalls and Plausibilities of Landmarks Preservation." American Institute of Architects Journal, July 1965, pp. 50-57.
- Wiedl, Michael F., III. "The Law of Historic Preservation." Urban Land, July/August 1975, pp. 27-30.
- Wiedl, Michael F., III. "Historic District Ordinances." Connecticut Law Review, Winter of 1975-76, pp. 209-230.
- Wilson, Paul E. "The Response of State Legislation to Historic Preservation." Law and Contemporary Problems, Summer 1971, pp. 329-347.
- With Heritage So Rich. A Report of a Special Committee on Historic Preservation under the auspices of the U.S. Conference of Mayors with a grant from the Ford Foundation. New York: Random House, 1966.
- Wolfe, Albert B. "Conservation of Historic Buildings and Areas." Planning 1964, Chicago: ASPO, 1964.
- Ziegler, Arthur P., Jr. Historic Preservation in Inner City Areas: A Manual of Practice. Pittsburgh, Pennsylvania: The Allegheny Press, 1971.

APPENDIX I

KEY DEFINITIONS

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Districts--Districts are the medium-to-large sections of the city, conceived of as having two-dimensional extent, which the observer mentally enters "inside of," and which are recognizable as having some common, identifying character. Always identifiable from the inside, they are also used for exterior reference if visible from the outside.¹⁶¹

Enabling Legislation--Legislation which gives governmental entities the power to carry out an activity, this can be under the mandate of a state or federal program.

Fee Simple Rights--The full ownership in a property. If one thinks of property ownership as a bundle of rights, fee simple is the whole bundle, every stick.

Future Shock--Future shock is a complete sense of alienation from an overload of new trends and developments in our technological oriented society. Preservation and conservation of historic areas is seen as a way to confront this phenomenon.

Historic District--A historic district is an area, or a cluster of related buildings, objects, and structures, in a compatible setting which takes as a whole, visually expressive styles and modes of living. These are representative of various periods in American history.¹⁶²

Historic District Commission--The group given the jurisdiction to control the use of properties within a historic district.

Historic District Ordinance--A special ordinance set up to control the aesthetic character of a historic or architecturally significant area. The authority can encompass the prevention or delay of demolition and control of facade alterations.

Historic Preservation--In a narrow sense, referring to structures or sites where the fathers of our country slept or fought battles. In the broadest sense, synonymous with conservation of man-made resources or in the city of urban conservation. Individuals subscribing to the broad definition maintain that famous sites and

buildings are only part of the picture, and that the preservation and restoration of large areas of our cities and towns is a necessary component of a livable future environment.¹⁶³

Ordinance--A municipal regulation, set forth by governmental authority.

Public Good--A good which provides positive externalities to individuals other than the owner.

Public Trust--The government can hold in trust for the benefit of the public, land and objects. Just because someone owns land and has exclusive possession of its surface, does not give the right to destroy or harm the environment around it. The use of land can have spillover effects on other people's land and the government has the right to protect land or objects that benefit the public.

Sweat Equity--A term referring to the increase in value of property through improvements done by the owner. The economic benefit one receives through being a do-it-yourselfer.

Tout Ensemble--The character of the entire district, all the buildings features, historic or not.

Transition Zone--The area around a historic district which might have an influence on the edges of the district and ultimately the district or be influenced by the district.

Reconstruction--The recreation of a building from architectural documents, often highly conjectural and less accurate than restoration.

Rehabilitation--Rehabilitation is putting a building into serviceable and habitable condition.

Restoration--An architectural term meaning to put a building back as it was in a particular period. Restoration goes beyond making a structure habitable once again. It includes retaining and refreshing its original exterior architectural character and as much of the original interior as possible; it adds a dimension of special value beyond that of structural soundness.

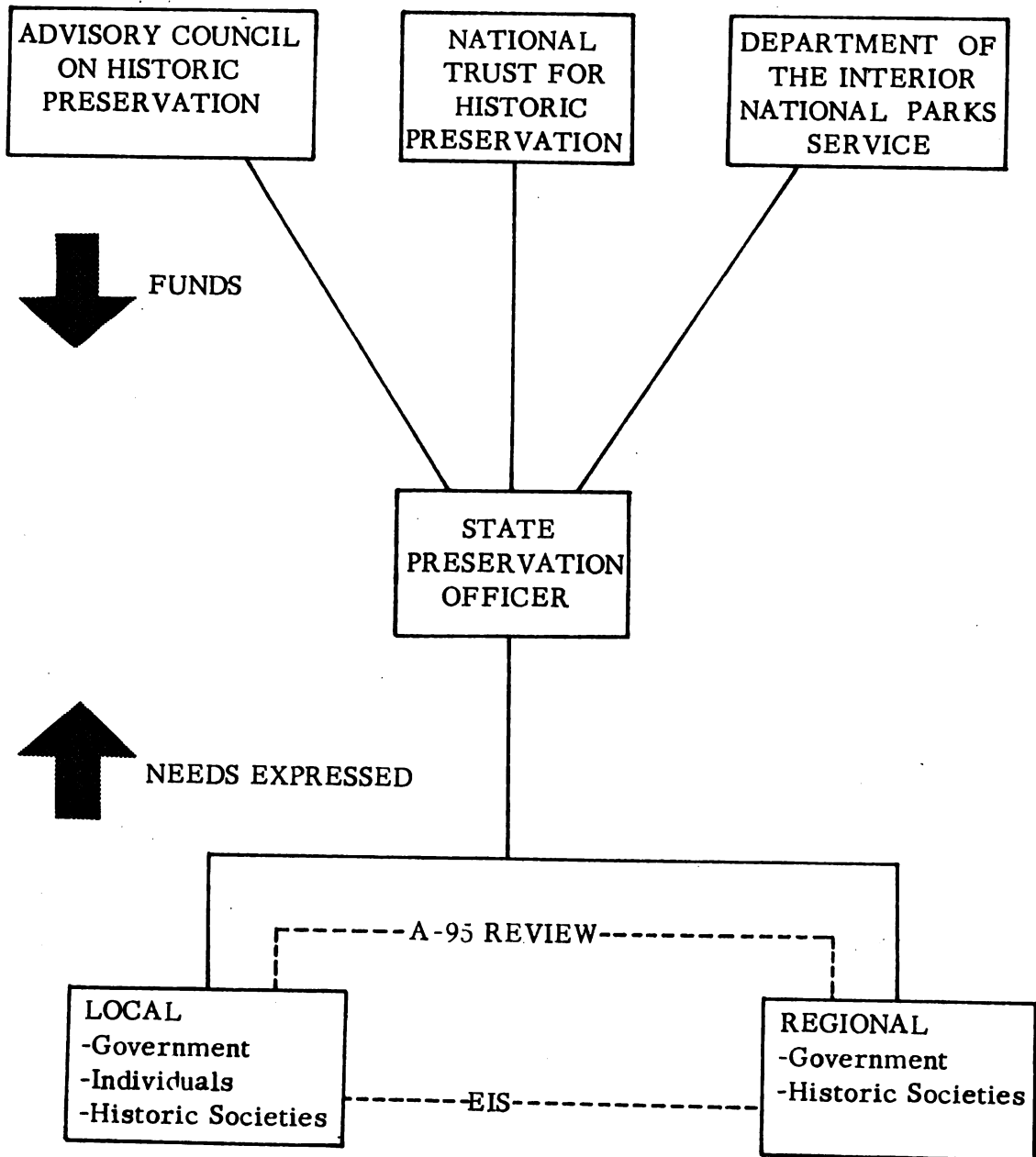
Zoning--A police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts. The zoning ordinance consists of two parts: a text and a map.

APPENDIX II

FEDERAL, STATE, REGIONAL, AND LOCAL GOVERNMENTAL RELATIONSHIPS

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