PRESERVATION

information

One in a series of Historic Preservation Information Booklets

Maintaining Community Character How To Establish A Local Historic District

by Pratt Cassity

Chihuahuita residents of southwest El Paso, Texas have used historic district designation to protect the community against industrial development and road widening projects.

The spring 1956 issue of *Old-Time New England*, the bulletin of the Society for the Preservation of New England Antiquities (SPNEA), contained an anonymous article entitled "Area Preservation and the Beacon Hill Bill," which explained how Boston's Beacon Hill Historic District was created.

"In [Charleston, New Orleans, Alexandria, Winston Salem, Georgetown, and Annapolis] it has been recognized that the preservation of historic monuments involves wider responsibilities than saving the single surviving old building, forlornly hemmed in on all sides by later structures and completely shorn of any meaningful context. . . . It is significant also that 'area preservation' has been started along a course of development which avoids the concept of a 'restored community.' The emphasis instead has been placed upon 'historic and architectural zoning for contemporary use' with the feeling that architects, planners, students, tourists, and the seeker-of-charm can derive as much if not greater satisfaction from an area which is protected from distortion and yet remains a vital, functioning part of the community. . . . This is not a negative approach in the long run. Actually, it is an extension of the various forms of zoning for business, industry and residence which have been fully accepted in most cities and towns for a good many years. It is by such regulations that property interests are safeguarded, and it has been a matter of crucial importance where 'historic zoning' is under consideration that the whole community recognize the sound potential advantages to be gained from the stabilization of an existing pattern and consequent appreciation in real estate values. . ."[1]

In 1992, almost 36 years after the SPNEA article, Historic Boston, Incorporated (HBI) produced a case statement, "Save Our City: A Case for Boston," to ensure that the Boston Landmarks Commission and local district commissions, including the Beacon Hill Historic District, have appropriate staff and leadership with preservation vision. The "Save Our City" project provides a suitable mea-

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Boston's Beacon Hill Historic District was established in 1955.

sure of the influence that Boston's local historic district and landmark protection program has had on the city. The key points presented as findings in the study closely parallel the SPNEA predictions in 1956. HBI found local preservation to be effective for these reasons:

1. Preservation means jobs.
2. Preservation means money for Boston.
3. Preservation means strengthening our neighborhoods.
4. Preservation is no longer an isolated activity, but a practical problem-solving tool.[2]

The HBI study demonstrates why a local historic preservation program that features municipally based protection and promotion of historic resources is so vital for Boston. "City residents, by overwhelming margins, want City Hall to protect Boston's unique, historic character. Poll results confirm this. City Hall must lead and direct the effort to save Boston by empowering the Landmarks Commission to carry out its statutory duties with energy and imagination."[3]

Certified Local Government Program

As part of the 1980 amendments to the National Historic Preservation Act of 1966, each state was directed to establish a Certified Local Government (CLG) program as a mechanism to formally involve local governments in the national historic preservation program. Most states developed procedures that extend CLG status to communities that adopt a preservation ordinance and establish a preservation commission.

There is some variety among state CLG procedures, particularly among different regions of the country. As a general rule, CLGs are those local governments that work as partners with their state historic preservation office (SHPO) and the National Park Service to identify, evaluate and protect historic resources within the CLG's political jurisdiction. This makes the local government eligible for an array of benefits reserved only for CLGs. These benefits include the ability to compete for 10 percent of the annual federal allocation made to each state from the Historic Preservation Fund, direct participation in the process for nominating properties from their jurisdiction to the National Register of Historic Places, and opportunities for training and technical assistance from their SHPO, the National Park Service and other federal agencies.

The Evolution of Historic Districts

The Boston experience proves that local preservation programs are effective. In fact, one of the first lessons learned in preservation is that the legal power to protect historic places lies chiefly with local government. Historic resources are first significant to a local population, and it seems reasonable that local people should play the leading role in protecting them.

Many Americans wrongly assume that the federal government protects historic resources and that listing in the National Register of Historic Places is sufficient to prevent demolition. The fallacy of this assumption is often discovered the hard way when a building is demolished, a fence is erected, or plans for a new building are unveiled. The strongest laws for historic preservation are local laws, not federal. A municipal process creating a local historic district and providing a regulatory method to protect a community's historic character is one of the strongest mechanisms to ensure that preservation occurs.[4]

The historic preservation movement as a whole has evolved from the time when the single landmark was preserved and promoted as a showpiece. Today, preservationists have become more concerned with total environments, developmental history, community planning, and politics. Local historic districts are a part of that evolution and reflect today's broadened preservation perspective that encompasses community history, culture, and values.

Local historic districts are generally created to protect entire areas or groups of historic structures. Such districts are often economic assets to communities and a source of civic pride. Local districts always serve a public purpose, which may be as simple as giving recognition to historic resources or as complex as establishing a financial incentive program to spur revitalization efforts. Downtown commercial areas and main streets, waterfront districts with associated warehouses and maritime resources, or residential districts ranging from the colonial cobblestoned neighborhoods of the eastern United States to the early 20th-century bungalows of California are the most familiar local historic districts.

Most often, the reason for creating a local district is to prevent unregulated and insensitive change. This protection is accomplished through the adoption of a preservation ordinance, which is a local statute establishing a design review board and creating a design review process. The design review board is often called a preservation or historic district commission.

The first local historic district was established in Charleston, South Carolina, in 1931. Charlestonians recognized the special character of their community and felt it deserved protection. Today, more than 1,800 communities across the country have followed Charleston's example. America has seen a ground swell in the number of local preservation ordinances adopted by local governments and, consequently, an equally large

CASE STUDY:

Protecting Neighborhoods in El Paso, Texas

Chihuahuita or "little Chihuahua" is roughly a six-block neighborhood in southwest El Paso, Texas. Bounded by the Rio Grande River, railroad tracks, and a water treatment plant, Chihuahuita is often overlooked because of its isolation and poverty.

The neighborhood began in the 1840s as a collection of wooden shacks and adobe houses mostly for immigrants from Ciudad Chihuahua, Chihuahua, Mexico. These immigrants began arriving in refuge from the threatening Apaches prior to the Civil War. They built canals or "acequias" for irrigation, introduced viticulture, and established a small community along the banks of the Rio Grande. The community continued to grow, stimulated by its proximity to Mexico, the arrival of the railroad in 1881, and the construction of the Franklin Canal in 1889. The vast majority of the immigrants, however, settled during the Mexican Revolution, which began in 1910. The wartime refugees were housed in hastily built tenements.

During the 1920s, Chihuahuita took the name "La Mancha Roja" because of its role as a bootlegging center. The isolation from mainstream El Paso continued, with the 1940s being dominated by "Pachuco" gangs, who terrorized tourists and residents. Although social relations improved after the 1950s, Chihuahuita remained an impoverished neighborhood of one- and two-story adobe and wood frame houses and tenements.

The area began to receive attention from local preservationists in the 1970s, but did not become a local historic district until 1991. Residents banded together to request designation as a means of galvanizing the neighborhood against two imminent threats of encroachment. First, the City of El Paso's zoning ordinance called for M-1 or heavy industrial and warehouse uses. Any new development in the neighborhood would likely reduce housing opportunities and increase the already growing warehouse uses. Second, a proposed expansion of the Border Highway along the Rio Grande called for an extension directly through the neighborhood.

In an impassioned public hearing, local residents sought designation to give their neighborhood a future and confirm its place in local history. The designation was approved with some modifications by the Landmark Commission and the City Commission. Today, the area is experiencing renewed interest with the rehabilitation of tenements, some using the historic rehabilitation tax credits, and construction of new housing units. Soldiers from nearby Fort Bliss volunteered to paint more than a dozen houses. These acts indicate a greater acceptance of the neighborhood in El Paso. Residents are serving as spokespersons for local historic districts, stating that the history of the poor needs to be recognized and respected, and that local districts can be beneficial in planning the future of neighborhoods.

This case study was prepared by Dwayne Jones, local government coordinator, Texas Historical Commission, Austin, Texas.

increase in the number of historic districts and properties designated at the local level.

In spite of the increased use of local "districting" as a means to preserve community character, countless neighborhoods, commercial cores, industrial districts, and rural areas remain unprotected. These resources are at the mercy of adverse market forces, neglect, and poor planning.

This booklet is designed to help in establishing a local historic district. The techniques described are meant to serve as a road map to determine whether a local district is the best protective strategy for your community. Homeowners in historic neighborhoods, local government officials, downtown merchants, and property owners will either endorse, amend, or reject proposals to create a district, depending on how well they understand the issues involved. The advantages may be crystal clear to the preservation community, but not everyone will find the establishment of a local district as appealing as the district proponents.

There are no easy solutions when it comes to shaping local sentiment or opinions. Whether a decision is about where to locate a toxic waste site, a zoning reclassification, a tax increase, or the passage of a preservation ordinance and establishment of local districts, increasing community awareness and the fine art of influence become critical when moved from the individual to the community level.

Why a Local District?

The reasons for considering a local district vary from community to community. Usually, the area under consideration is faced with development pressures that will alter its historic character. Perhaps the district will be targeted for special planning efforts or community development programs such as a facade/home improvement program, a streetscape plan, specific improvements, a crime-watch patrol, or a tree planting project.

Whatever the goals, a local historic district is but one component of a community's comprehensive program for maintaining a thriving, viable, and lively collection of historic and contemporary resources. It is not the only solution for making preservation work at the local level. The local district is simply one tool to protect community character and should be used in combination with other planning and revitalization strategies. Although the district is quite often the centerpiece of a comprehensive local preservation program, it is rarely a solo act.

The associative value of historic resources is one of the long-standing reasons for preservation. Keeping buildings, sites, and objects around for future generations to appreciate is the most often repeated justification for historic preservation. Another compelling reason for communities to consider a local historic district is the economic advantage of well-preserved and revitalized historic districts. A locally regulated historic district can be a tool in fighting many of the negative economic trends that occur in the older sections of a community.

According to Dennis Gale, a professor of public policy and management at the University of Southern Maine, "the designation of historic districts in residential neighborhoods has grown in popularity. . . there is modest evidence that historic districts are more resistant than essentially identical but undesignated neighborhoods to price volatility associated with 'boom and bust' cycles in real estate trends."[4] His studies point to a clear connection between district recognition, improved community awareness programs, instituting municipal rehabilitation programs, and promoting federal preservation incentives, and improved resident and investor confidence, thereby having a direct or indirect positive effect on property values.[5]

The benefits of creating a local historic district must be clearly articulated to government officials. More importantly, property owners must fully understand what designation will mean to them, since the use of their property will in some ways be restricted. Controversy between supporters of a local district and opponents can often be avoided by explaining the benefits that other communities have realized from their local historic districts. These benefits include:

1. Local districts protect the investments of owners and residents of historic properties. Suburbanites have available a sophisticated array of property value protection tools ranging from covenants and easements to subdivision regulations. Urban property owners rarely have the same security and often feel the pinch when insensitive development undermines their property value by turning their neighborhood or commercial area into a hodgepodge of poorly planned developments. The resulting lack of cohesiveness makes the area less attractive to investors and home buyers. Historic district designation encourages the purchase and rehabilitation of properties because the investment is better protected over a long period of time. Buyers will know that the aspects that make a particular area attractive will be maintained. Real estate agents in many American cities use historic district status as a marketing tool to sell properties.

2. Local districts encourage better quality design. Ellen Beasley, historic preservation consultant, noted in a study of nine historic districts that better design, i.e., a greater

sense of relatedness, more innovative use of materials and greater public appeal, occurred more often within the districts than in areas without historic designations.[6]

3. Local districts help the environment. As our world gets smaller and our resources more limited, it is as irresponsible to waste the built environment as it is to waste natural areas. Building demolition that encourages suburban sprawl and decentralization of cities wastes tax dollars through construction of duplicative roads, sewers, and utilities; adds to landfill problems; and makes us more auto-dependent which contributes to pollution and congestion. This situation contributes to the decay of inner cities and the unwise use of infrastructure, land, and other non-renewable resources. Historic district revitalization should be a part of a comprehensive community recycling effort and environmental policy.

4. The educational benefits of creating local districts are the same as those derived from any historic preservation effort. Historic districts give a tangible link to the past, a way to bring meaning to history and to people's lives. Districts help explain the development of a place, the source of inspiration and technological advances. They are a record of ourselves and our communities.

5. A local district can result in a positive economic impact from tourism. A historic district that is aesthetically cohesive and well promoted can be a community's most important attraction. Studies by the U.S. Travel Data Center in Washington, D.C. indicate that tourism will be the world's leading industry by the year 2000 and that tourists' major goal is to experience history and culture. The retention of historic areas as a way to attract tourist dollars makes good economic sense.

6. The protection of local historic districts can enhance business recruitment potential. Vibrant commercial cores and attractive neighborhoods attract new business and quality industry. Companies continually relocate to communities that offer their workers a higher quality of life which is greatly enhanced by successful local preservation programs and stable historic districts.

7. Local districts provide social and psychological benefits. The comfort found in human-scale environments, the desire to live and work in attractive surroundings, the emotional stability gained by maintaining a recognizable and walkable neighborhood, and the galvanizing effect of community-based group action are all direct results of most local historic district ventures. The district designation process also allows citizens to take part in deciding the future of their communities. A sense of empowerment and confidence develops when community decisions are made through a structured participatory process rather than behind closed doors or without public comment.[7]

CASE STUDY:

Economics Benefits in Mobile, Alabama

A recent analysis performed by the Junior League of Mobile, Alabama, shows that property values in the Church Street East Historic District increased by 582 percent in the 15-year period between 1974 and 1989. By contrast, general property values in Mobile increased by only 100 percent during the same period. The Church Street East Historic District is an area where intensive restoration and rehabilitation have taken place. It is protected by a preservation ordinance that requires that changes to buildings in the district be approved by an architectural review board prior to obtaining a building permit.

Junior League volunteers followed a methodology developed by the Washington-based Government Finance Research Center for the National Trust for Historic Preservation[1]. Volunteers researched more than 170 historic buildings to generate the figures. Property values for 1975 in a 21-block area were taken from property tax assessment sheets. Comparable values for calendar year 1989 were then generated by computer. The individual property tax values were totaled for each year. The astounding results were: 1975 property values for this neighborhood totaled $1,679,083. The same parcels in 1989 totaled $9,770,745. The increase in values over this 15-year period was 582 percent.

The rise in property values reflects not only the neighborhood becoming a more desirable place to live, but also the investment of capital into this area. The economic benefits of this neighborhood's revitalization can be measured in terms of return of property taxes to local government, sales tax collected on the purchase of construction materials, construction jobs created by the rehabilitation activity, and creation of an attraction for Mobile's expanding tourist economy. This survey conclusively illustrates that a well-developed historic preservation program and the creation of a local historic district is not only good for the cultural and social values of a city, it also increases property values and benefits the local economy.

Prepared by the Junior League of Mobile, Inc., and Mark McDonald, director, Mobile Historic Development Commission, Mobile, Alabama.

[1] *Government Finance Research Center,* The Economic Benefits of Preserving Community Character, *Washington, D.C.: National Trust for Historic Preservation, September, 1992.*

How to Increase Community Support

An easy way to launch a public awareness campaign for creating a historic district and establishing a local design review process is to form a broad-based task force or study committee, composed of individuals from every walk of life. It is imperative that property owners from the proposed district be involved from the beginning. Task force members should be hard workers, civic-minded, supportive, and willing to learn. This task force should be officially recognized by a resolution passed by the local governing body to give it credibility. It may be helpful for an existing organization, such as a historical society, downtown development organization, or neighborhood association, to approach local leaders with the idea. The task force will then become the primary group to push for the creation of local districts and some members may eventually be candidates for appointment to the preservation commission.

Begin early to build public and political support. Education should target a variety of groups throughout the community. From political leaders to schoolchildren, a wide range of citizens will be both affected by and interested in the process of creating historic districts. Some groups to target in this educational campaign would include:

- Elected officials
- Municipal department heads
- Media
- Business community
- Developers
- Legal community
- Homeowners and neighborhood organizations
- Downtown and commercial property owners
- Religious leaders
- Realtors and real estate brokers
- Architects, landscape architects, and designers
- Civic clubs
- Educational leaders and schoolchildren
- Preservation community

Your creativity is the only limit in developing educational tools. Communities have had success in using any combination of the following:

- Town meetings, workshops, and work sessions
- Fact sheets and flyers
- Press releases
- Contests
- Festivals, tours, and special events
- Booths and exhibits
- Banners and posters
- School curricula
- Slide and video presentations
- Lecture series
- Neighborhood coffee klatches
- How-to seminars

Many communities have found a combination of educational techniques to be most successful. Clear, concise, and easy-to-understand materials are important to the success of any effort. This approach to community education can be repeated when a specific proposal is before the governing body. The proponents for adopting an ordinance, designating a district, or implementing any preservation strategy MUST be prepared to testify in large numbers to support their cause. Always assume that those who oppose the idea will also be there in force. District proponents are more likely to reach their goals and community consensus when they are well versed in the benefits of local districts and prepared to counter possible opposition.

Community education is a collaborative effort. Just as preservation planning cannot occur in the isolation of one program or under the auspices of one agency, department, or organization, neither can a community's efforts to educate residents and political leaders about a local preservation ordinance. The collaboration between like-minded individuals, civic groups, merchant and neighborhood associations, and professional organizations makes the task of community-wide public relations an easier one.

Often a local nonprofit preservation organization or historical society is the most logical group to coordinate the activities of district supporters. The role played by the nonprofit as the predominant district advocate is a tremendously important one. The nonprofit serves as the patient educator before the ordinance comes up for consideration by elected officials. It is the chief organizer to lobby for the passage of preservation legislation which includes arranging for informed and supportive testimony at public meetings and hearings. The duties of the local nonprofit do not stop with ordinance adoption. Its proactive involvement should be ongoing and might include: conducting straw polls, completing historic resource surveys, developing district awareness campaigns, and sponsoring planning studies before, during, and after district designation occurs. Many nonprofits extend their role as the primary advocate for the commission and suggest names to fill vacancies as terms expire on the commission, they sometimes provide staff assistance, often serve as mediator in disputes, and participate in commission training and goal setting exercises.

Although essential to successful local preservation efforts, collaboration is not always the easiest thing to sustain. Fierce turf battles can develop between groups that share similar goals. Shortsighted commission members and local planners, as well as unproductive nonprofit staff or board members, can get caught up in miscommunication and needless disagreements. This always hurts the credibility of local preservationists and can lead to the ultimate demise of the entire local preservation process.

The need for property owner and resident awareness does not end once the historic designation occurs. The most effective community education programs are continuous. In fact, it is especially important to make sure that purchasers of property in a historic district after it is designated know that their property is subject to restrictions. Recognizing this, the Baltimore City Commission for Historical and Architectural Preservation (CHAP) conducted a

nationwide survey of selective communities with preservation commissions in 1992 to determine what methods are being used by other local preservation commissions to enhance property owner awareness of the meaning of historic designation. Survey responses indicated numerous methods including:

- working with real estate agents to inform and educate the real estate community about historic properties and what historic district status means;
- including historic district status in real estate multiple listings;
- sending annual notices (list of addresses and maps) to title companies, real estate agencies, and relevant public agencies to advise of all designated addresses;
- mailing notice of historic district designation and commission information with annual tax bill, water bill or new water account bill;
- mailing annual commission newsletter to all historic neighborhood associations notifying/reminding owners of record (and tenants if possible) of historic district designation, guidelines, and permit requirements (through use of tax records data base);
- forming neighborhood association "welcome committees" to distribute commission guidelines to new homeowners; and
- implementing city award program for owners who have done significant work on their property.

DO YOU THINK THAT BRUNSWICK NEEDS A HISTORIC PRESERVATION ORDINANCE?

Learn about and express your views on the proposed preservation ordinance at the public meetings conducted by Mayor A.C. Knight.

AUGUST 1 -- Glynn County Middle School, 7:30 p.m.

AUGUST 21 -- Risley Center Middle School, 7:30 p.m.

SEPTEMBER 5 -- Burroughs-Mollette School, 7:30 p.m.

Copies of the proposed ordinance are available at City Hall and also at the meetings.

REMEMBER

Your opinion counts!

Understanding Historic Districts

Much confusion, misinformation, and suspicion surrounds the issue of creating local historic districts and designating local landmarks. Even the terminology is misleading and ambiguous at times. The apprehension of typical property owners is understandable. Their questions and concerns stem from having only a vague awareness of community enhancement programs and historic preservation. Most Americans do not understand the specifics of municipally based design review and historic resource protection strategies and may have difficulty distinguishing local preservation endeavors from state or national programs.

The average citizen might wonder why a particular area should become a local historic district in addition to being listed in the National Register

Town meetings can help educate local residents about the designation process.

of Historic Places or in a state register of historic places. A historic district can be a local district, a National Register district, a state-designated district, or all three. Each type of designation is a useful preservation tool and, while they are different, they share some common characteristics. Since every state does not have a state register and since there is great variety among those that do, this booklet will address the differences between local and National Register districts only.

A National Register district is any area of a community that has been determined to be of historic significance based on criteria established by the U.S. Department of the Interior (see Appendix A). The National Register is a federal designation signifying that a building or site has historic or archeological significance to the nation. Such designation does not trigger any restrictions on private property owners. It may, however, call upon federal agencies to consider the impact of their activities on historic sites before proceeding with federally funded or licensed projects. Preservation incentives, such as historic rehabilitation tax credits, are also available to qualifying buildings in National Register districts. The major function of a National Register district, however, is simply to recognize the historic significance of the resources within it and to use this information as a planning tool.

A local district is similar to a National Register district in many ways. The two can be used independently or cooperatively to protect a community's resources. Like the National Register district, the local district identifies historically and architecturally significant buildings, but this recognition can be based on locally developed, rather than national, criteria and policies. Local significance, attitudes, and contemporary events will affect what a community views as important. Because properties less than 50 years old are generally not eligible for National Register listing, the National Register may not serve as a

CASE STUDY:

New York Preservationists Support Landmarks Commission

Preservationists can be more than a vocal constituency. The shrewd landmarks commission realizes that preservationists may be its strongest and only organized supporters. Preservation in New York is often a hard sell, especially against the big guns of the developers. Working with preservation groups—either organized nonprofits or grass-roots community organizations—is often the only way to counter these powerful antagonists.

For some time, a powerful group of religious nonprofits tried to get exempted from New York City's Landmarks Law. Stating economic hardship, the religious groups hired lobbyists and lawyers to argue their case and brought dozens of priests, ministers and rabbis (almost all, ironically, representing non-landmarked buildings) to testify. The issue was pitched on a politically attractive emotional level. The city administration was under considerable pressure to accept legislation that would effectively exempt nonprofits from the law.

The preservation community rallied to the support of the landmarks commission. Preservationists brought their own ministers, priests and rabbis to testify (all from landmarked buildings). They got preservation-minded constituents and neighborhood groups to visit city council members, reminding the politicians that their position on this issue would matter on election day. They debated their side of the argument on radio shows and in the letters column of the press. None of this could have been done by a city agency. The preservation community and the landmarks commission won. The legislation that was passed met the requirements of the charter change without eviscerating the landmarks law.

Sometimes preservation battles are lost. The Dvorak House, where Antonin Dvorak lived and wrote the New World Symphony was destroyed following a hard preservation battle. Despite a well-funded campaign by a major New York hospital and the fact that this was an emotional issue over constructing an AIDS facility on the site, more than a third of the city council voted to confirm the landmark status of the building. Without the activities of preservation groups, Czech associations, and music societies, including two orchestras, the vote would not even have been close.

The trick is for both sides—the commission and the preservation group—to realize they will occasionally disagree. The commission cannot ask the preservationists to abandon their prodding of the commission. The preservationists must remember, on the other hand, that a landmarks commission has to function within an administrative bureaucracy and tight budgets and is not always the master of its own fate. But, if communications are kept open in the areas of mutual agreement, the preservationists, like any other interest group in today's politics, can bring considerable pressure to bear on the political process.

Prepared by Eric Allison, president of the Historic Districts Council in New York.

good measure for identifying and evaluating more recent character-defining development in a community. It is, therefore, possible to include in a local district resources such as cemeteries, religious institutions, moved buildings, and properties less than 50 years old, which ordinarily are not considered National Register-eligible.

The primary strength of local designation is that it is tailored to specific community needs and provides greater protection for local resources. The preservation commission or other local government body, through the design review process, has the means to assure that proposed major changes are sympathetic to the character of the district. Because National Register listing does not provide for a design review process, properties listed only in the National Register can be readily and easily altered or demolished by anyone not using federal funds.

National Register and local designations can work together. For example, an existing National Register district can serve as the basis for designating a local district, perhaps with boundary lines altered as research, community needs, and local politics dictate. The National Register program is also a credible way to identify a community's historic resources while local district designation can further protect and enhance them. Thus, what the National Register helps to identify, the local district helps to protect.

Because the listing process is often less involved, less bureaucratic, and less time consuming for a publicly supported local district than for a National Register district, local designation may precede National Register activity. An existing local district can provide the basis for a subsequent National Register nomination. The order in which a community pursues designation and whether dual designation is useful varies according to local circumstances. Differences in research required, property owner consent, SHPO and National Park Service concurrence, and costs will all play a role in determining what types of designation are appropriate.

How are District Boundary Lines Established?

Preservationists, planners, design professionals, elected officials, and neighborhood advocates are faced with the challenge of setting boundaries for a wide range of historic districts. Hundreds of questions arise when districts are proposed. Which buildings should be included? Should vacant lots be excluded? What about contemporary intrusions? Should a buffer zone surround the district? Should National Register boundaries and local zoning or planning boundaries differ? What will happen to the properties in a district after designation?

The problems are obvious. Solving them can become a community nightmare, but this does not have to be the case. There is a logical process for determining the edges of historic districts.

The visual and environmental character of any area, especially historic districts, comes from the relationship between natural and man-made features. That relationship is vital to understanding why one area is different, perhaps even better, than another. The individualized design of buildings and landscapes, the settlement patterns of communities, the comfort of human-scale neighborhoods with tree-lined streets, and the physical connection to the past all contribute to a vibrant, harmonious relationship in most historic districts.

A historic resources survey—the process of identifying and gathering data on a community's historic resources—must be conducted prior to successful district designation. The historic resources survey will define the community's historic character and will produce a working inventory of sites and structures used to make judgments about where, what size, and how many historic district designations should be made. An ongoing process, the survey is the basis for community education and public awareness campaigns about local historic resources.

Russell Wright's *A Guide to Delineating Edges of Historic Districts* stresses the importance of preliminary work, such as a comprehensive historic resources survey, to identify and document current conditions. It offers a series of six "edge factors" to consider when establishing boundaries:

1. Historical Factors
   - Boundaries of an original settlement or early planned community
   - Concentration of early buildings and sites
2. Visual Factors
   - Determinations or influences of an architectural survey
   - Changes in the visual character of an area
   - Topographical considerations
   - Gateways, entrances, and vistas to and from a district
3. Physical Factors
   - Railroads, expressways, and major highways
   - Major urban spaces
   - Rivers, marshlands, and other natural features
   - Major changes in land use
   - Walls, embankments, fence lines
   - Limits of a settled area
4. Surveyed lines and lines of convenience
   - Legally established boundary lines
   - Streets and other local rights-of-way
   - Property lines
   - Uniform setback lines
   - Other lines of convenience
5. Political considerations
   - Opinions of government officials, institutions, private citizens, and property owners
6. Socioeconomic factors
   - Ability of residents to pay for improvements
   - Desire to conform to district regulations
   - Affordability of remaining in area after designation

Some communities hold public meetings and pre-designation workshops to discuss boundary proposals with local residents and property owners.

This list is a sample of the many factors that influence decisions regarding district boundaries. Many cities hold public meetings and pre-designation workshops to discuss boundary proposals with residents, property owners, and preservationists. Some communities utilize planning staff, consultants, or commission members to conduct these workshops. After gathering community sentiment, reviewing designation criteria, analyzing all the "edge factors," and considering other community development and planning goals, an informed recommendation regarding district boundaries can be made.

What are the Components of a Landmark Ordinance?

The preservation ordinance and review commission are key elements of municipal preservation programs. They are the foundations of local government preservation policy and represent the willingness of a community to recognize, invest in, and protect its historic resources. The preservation ordinance is nothing more than local legislation enacted to protect buildings and neighborhoods from destruction or insensitive rehabilitation.

Due to variations among state enabling legislation that affects local regulatory statutes and 60 years of evolution of state and federal legislative and judicial action regarding historic designations and aesthetic controls, great variety exists among local preservation programs. Designation criteria and ordinance provisions are often borrowed from community to community, and they evolve and, hopefully, improve as they move from town to town. Therefore, provisions differ and are sometimes hard to comprehend and even harder to compare.

Each preservation ordinance should be unique. Each one should be written to meet the specific needs of a particular community. There are, however, some basic components that almost all preservation ordinances have in common.[6]

The local preservation ordinance is a type of land-use law. The power of local government to regulate private property through land-use laws is referred to as "police power" and is reserved to the states by the United States Constitution. Since preservation ordinances are an expression of the police power governing land use, they should strive to comply with the four cardinal rules of land-use law:

1. An ordinance must promote a valid public purpose. That is, it must somehow advance public health, safety, or general welfare.

2. An ordinance must honor a citizen's constitutional right to "due process" under the law. In other words, fair hearings and notice to property owners must be provided and rational procedures must be followed in the administration of an ordinance.

3. An ordinance must not be so restrictive as to deprive a property owner of all reasonable economic use of his or her property.

4. An ordinance must comply with all relevant state laws.[7]

If a local ordinance violates any of these rules, it could be challenged in court. In the case of Carmel, New York, a trial court invalidated the town's historic preservation ordinance. In 1988, the trial court held that the town's failure to provide adequate notice of a public hearing prior to the adoption of the ordinance created a jurisdictional defect and, therefore, the ordinance was invalid. The Town Law governing the enactment of ordinances requires that a ten-day notice of public hearing be provided. The notice for the public hearing on the

preservation ordinance was given only seven days before the ordinance was adopted.

When an ordinance to designate districts and/or individual landmarks is passed, it signifies that affected property owners are subject to one additional layer of regulation, over and above the existing zoning and land-use ordinances governing that property. These ordinances are often called "overlay zoning" because they are laid atop the underlying or "base zoning" regulations. They generally require property owners to obtain a permit, called a "certificate of appropriateness," before a building is demolished, moved, or its exterior altered in ways that would affect its character and the character of the district, and before new construction may occur. The commission or review board issues the permit, which is the go-ahead for other municipal boards and agencies to begin their permit approval process. An appeals procedure is available to property owners or other citizens who are dissatisfied with the commission's decision.

Preservation ordinances provide a constitutional way for local governments to protect special aspects of their communities. The basic constitutionality of preservation ordinances was upheld in the 1978 Supreme Court decision affecting Grand Central terminal in New York City. In its ruling on Penn Central Transportation Company v. City of New York (438 U.S. 104), the court indicated that historic preservation is a valid public purpose and that the New York landmarks preservation ordinance had not "taken" private property in violation of the Constitution because the ordinance's restrictions left Penn Central with a "reasonable beneficial use" of its landmark property.

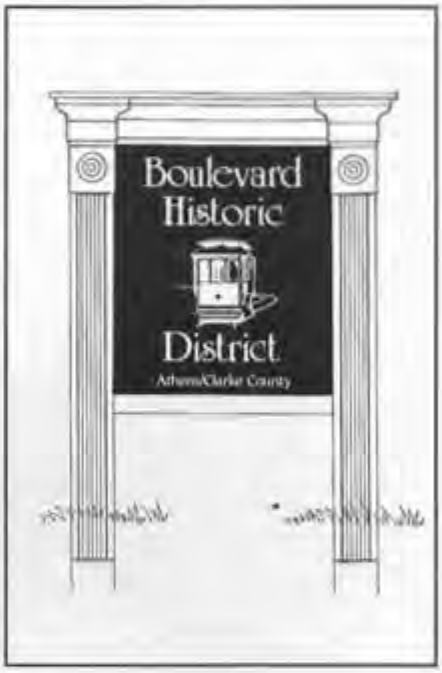
Because of the legal nature of local preservation ordinances, it is imperative that community groups consult with legal staff when drafting an ordinance. The city staff attorney and local attorneys interested in preserva-

CASE STUDY:

Citizen Involvement in Athens, Georgia

In Athens, Georgia, the preservation commission was established by ordinance in 1986. Athens' designation process is governed by the provisions of the Georgia Historic Preservation Act, the state enabling legislation for creating local districts. As a matter of local policy, city planners and the preservation commission give considerable weight to owner and occupant support for local district nominations.

The Boulevard District, a mixed-income, turn-of-the-century residential district, is a good example of how Athens balanced citizen input concerning district boundaries with historic significance and architectural merit. The neighborhood association, in cooperation with local planning staff, the state historic preservation office, and members of the preservation commission, sponsored community meetings at a public school in the district to explain the nature of historic designations and to begin the process of influencing public sentiment. The historic and architectural significance of the area was explained, maps of proposed boundaries presented, and the benefits and responsibilities of designation discussed. The meeting confirmed that there was strong support for the district and, as required by ordinance, the historic preservation commission scheduled and mailed notices of a public hearing to both owners and occupants of property in the area. A questionnaire was included with these notices to further assess the sentiment of those who might have been unable to attend the public hearings. The findings of the questionnaire were not binding on the preservation commission or elected officials.



As a result of the public participation and community education components of the local designation process, the preservation commission decided to redraw the boundaries of its first district proposal. Some property owners wanted to be excluded from the Boulevard District. They felt that their part of the neighborhood should be designated separately and at a later date due to a visual and geographic separation from the main body of the proposed district. Additionally, the area requesting exclusion included a larger percentage of renters on fixed incomes. The commission agreed somewhat reluctantly and made its final proposal to city council excluding the portion under dispute. The district was designated as recommended.

The commission's responsiveness to local sentiment and encouragement of owners and residents to be part of the process resulted in a sense of ownership and responsibility among the district residents. The residents have emerged as district watchdogs so that the sole responsibility for monitoring the district does not lie with the commission members or city staff.

Prepared by Julie Morgan, preservation planner with Athens/Clarke County.

tion, as well as national organizations providing preservation legal assistance, are good sources of assistance.

How Does the Design Review Process Work?

While local districts and the reasons for creating them vary, districts are generally based on the adoption of an ordinance and the creation of a design review board called a preservation commission. Commissions have a range of power or authority.

A compulsory or mandatory design review program is the most common method used to regulate local historic districts. Property owners are required to follow established design review procedures, just as they are required to conform to building and fire codes and other regulations.

A commission's authority can be only advisory in nature, whereby decisions simply serve as guidance to property owners, planning commissions, town councils, or county commissioners.

Some local preservation review and protection strategies are incentive-related. These programs operate in a "carrot and stick" fashion and are often a precursor to implementing a mandatory review program. Generally, a property owner is afforded a special service, such as free technical advice or design assistance, in return for adherence to certain standards, guidelines, and/or restrictions. Most often, incentive-related design review is associated with downtown revitalization programs. Many local Main Street programs, for example, offer low-interest loans or matching grants-in-aid to downtown businesses to help finance building facade improvements. The property owner is required to follow established design guidelines and submit plans and drawings to a design review committee and/or loan approval board before work begins.

Main Street programs sometimes offer special incentives for facade improvement projects that follow established design guidelines.

Many communities have a combined approach and have added a number of incentives to the more typical compulsory or mandatory design review to strengthen their municipal preservation programs. Community planners have discovered that regulations and restrictive ordinances are more palatable if they "sweeten the pie" by linking strong incentives to a regulatory process. Among the incentive programs offered by local governments are tax incentives, direct financial assistance, zoning incentives, regulatory relief from building codes or parking requirements, and a variety of technical assistance programs.

The preservation commission's decisions and activities must be backed up by the local governing body and municipal staff to be effective. Enforcement of commission decisions and penalties or fines for non-compliance with the provisions of the ordinance make the commission's voice carry the full weight of local law. This kind of municipal support is a critical part of the commission's public mandate and must be carefully nurtured and maintained.

Local Innovations

More than 60 years have passed since the enactment of the 1931 Charleston statute. Communities are implementing revisions and innovations to the traditional preservation ordinance,

Takings Clause

Legal challenges to ordinances often invoke the "takings" clause of the Constitution's Fifth Amendment, which provides that "private property [shall not] be taken for public use, without just compensation." The Supreme Court long ago ruled that the takings clause does not prohibit local governments from imposing reasonable controls on the use of land without providing compensation. Landowners may still argue that a taking has occurred if a regulation either fails to substantially advance a legitimate state interest (generally not an issue for preservation, since the U.S. Supreme Court has explicitly recognized the validity of this type of regulation), or its effect is so extreme that it does not permit the economically viable use of land. If a taking is determined to have occurred, the local government risks having to compensate the property owners for loss of use during the period the regulation was in place. Such a result is extremely rare, however, particularly in the case of historic preservation ordinances. According to Paul W. Edmondson, National Trust attorney, "It is important to recognize that existing court precedent makes it difficult in the first place to prove that land use regulations of this type amount to a taking."[1]

[1] *Samuel Stokes, Elizabeth Watson, Genevieve Keller, Timothy Keller,* Saving America's Countryside: A Guide to Rural Conservation, *Baltimore and London: The Johns Hopkins Press, 1989.*

local historic district, and design review board. These changes are inevitable and should be welcomed by preservationists.

Conservation Districts

One of the most talked about extensions of the traditional local historic district program is the conservation district. Cities such as Raleigh, North Carolina; Omaha, Nebraska; Portland, Oregon; Cambridge and Boston, Massachusetts; Dallas, Texas and Nashville, Tennessee, have all supplemented their preservation programs with conservation districts. While great variety exists among these programs and they can be applied to commercial, residential, industrial, or rural districts, most conservation districts share some similar goals:

1. to maintain the buildings and character of an area that may not fully meet the criteria for a local historic district;

2. to provide guidance for maintenance and alterations that allows more design flexibility than a local historic district;

3. to reduce the number of applications that come before a commission by delegating some approval authority to staff (this is especially important in districts that contain a large number resources that have similar characteristics, such as bungalow neighborhoods or row houses); and

4. to retain a source of affordable housing in low- to moderate-income areas.

Specific architectural and urban design standards and guidelines are a very important part of most conservation district programs. Some communities also choose to extend local preservation incentives to both historic and conservation districts.[10]

CASE STUDY:

Incentive Programs

In 1989, Roanoke, Virginia, created a Historic Buildings Rehabilitation Loan Program. Local banks provide rehabilitation loans of up to $100,000 per project. The interest rate is set at two percent below prime and the loan term at seven years. The program is limited to historic buildings in Roanoke's downtown historic district or buildings in the district that are determined to contribute to its character. In addition, the City of Roanoke offers facade improvement matching grants of up to $5,000 and provides free architectural design assistance to property owners in local historic districts. To qualify for these grants, a person must rehabilitate a deteriorated building and provide job opportunities for low- and moderate-income persons. This program is funded through Community Development Block Grant funds available from the U.S. Department of Housing and Urban Development.

In Lansing, Michigan, the following language in the preservation ordinance serves as an incentive for compatible infill development in local historic districts: "Due to particular conditions of design and construction in historic neighborhoods where structures are often built close to lot lines, and since it is in the public interest to retain a neighborhood's historic appearance by making variances to normal yard requirements where it is deemed that such variances will not adversely affect neighborhood properties, the Historic District Commission may recommend to the Board of Zoning Appeals that a variance to standard yard requirements be made."

In Miami, Florida, zoning, parking, and building code requirements are extremely flexible when applied to historic structures. Under the Miami historic overlay zone ordinance, the city may approve conditional uses, i.e., professional offices, tourist and guest homes, museums, private clubs and lodges, in order to make the preservation of historic structures more economically feasible. Miami also permits waivers of minimum lot size, floor area, open space, height, building spacing, and footprint requirements to encourage historic preservation. Where the size or configuration of a historic district is such that compliance with off-street parking requirements would destroy the area's historic character, the city may authorize a reduction of up to one-third of the number of parking spaces that would otherwise be required.

In Seattle, Washington, the preservation ordinance authorizes an entire package of incentives containing "tax relief, conditional use permits, rezoning, street vacation [or closings], planned unit development, transfer of development rights, facade easements, named gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements, or amenities, or the like."[1]

[1] *Constance E. Beaumont, "Local Incentives for Historic Preservation," Washington, D.C.: Center for Preservation Policy Studies, National Trust for Historic Preservation, 1991 and Richard C. Collins, Elizabeth B. Waters, and A. Bruce Dotson,* America's Downtowns: Growth, Politics and Preservation, *Washington: The Preservation Press, 1991.*

Environmental and Landscape Protection

Many local governments have enacted laws to protect the landscape of their historic districts. Very stringent streetscape provisions are added to design guidelines and preservation ordinances or may be a separate and specific ordinance governing historic plant material retention, tree replacement, and landscape improvements.

In Aiken, South Carolina, for example, historic district design guidelines were written to emphasize landscape design, streetscape considerations, the parkway system, plant materials, and town form. A community whose "Winter Colony" began attracting America's wealthy horse enthusiasts in the 1870s, Aiken has a unique pastoral quality created by wide parkways, boulevards, and dense tree plantings. Unpaved roads persisted throughout the 20th century as a benefit to the horses. A provision in the Aiken preservation ordinance requires municipal and county departments, as well as utility companies, to comply with the design guidelines and to obtain preservation commission approval of work proposed in historic districts. This provision is extremely important since most of the significant landscape features in Aiken are in public rights-of-way.[11]

Interim Protection

In some communities, property owners, fearful that proposed regulations will restrict their ability to fully redevelop their property, i.e., demolish a historic structure and replace it with a much larger building or make significant additions, seek demolition permits at the mere mention of a proposed district. This is especially true in communities where the development climate is speculative and property values vary widely between new buildings and old ones. In these cases, interim controls and moratoria on permits have been instituted for areas nominated, but not yet officially designated, as historic. All controls are imposed for a specified time to

Design guidelines in Aiken, South Carolina emphasize the landscape.

provide reasonable limitations to curb speculative demolitions and prevent hasty actions made by uneasy property owners.

Phoenix, Arizona, for example, has passed an ordinance that provides interim protection. Following the demolition of two historic buildings, a c. 1910 bungalow and a Moderne style commercial building (the commercial building was listed in the National Register, but neither building was locally designated) the city approved a temporary ordinance prohibiting the demolition of any building 40 years old or older without permit review by the Phoenix Historic Preservation Commission (PHPC). Seemingly a strong preservation tool, the ordinance soon proved to be an overwhelming burden. In a three-month period, the PHPC reviewed 102 demolition applications.

Rather than continue to review every demolition permit requested for buildings of 40 years or older, the PHPC proposed stronger protection of historic resources that have not yet been designated, but for which application for historic designation has been "initiated." The revised ordinance provides the same demolition review protection for these properties as for resources already designated. The PHPC recognizes that many of the city's historic resources have not been surveyed or designated, and this way is able to protect potentially valuable properties without placing an undue burden on itself or its staff.[12]

Again, it is important that communities using interim controls take care to comply with all relevant state enabling laws, follow proper administrative procedures, and adhere to public notice and hearing requirements. Although these requirements vary, depending on local circumstances, it is important to remember that a U.S. citizen's right to "due process" under the law must not be taken away.

Sign Controls

Many historic districts are especially vulnerable to insensitive signage and can become cluttered with signs of all types, sizes, and functions. As a result, communities are strengthening existing sign controls to reflect the goals of their historic districts. While signage within historic districts may be successfully regulated, the entrances and approaches to the district often remained unprotected. A comprehensive study of signage and sign controls is often precipitated by the creation of a local district. Innovations in this area include the recognition and protection of historic signage, such as neon and wall murals. Historic signage will often fail to conform to local regulations. A "grandfather clause" added to existing sign controls protects the historic signs while allowing the regulation of contemporary signage.

Minimum Maintenance

In many cities the problems associated with historic structures involve poor maintenance especially by absentee landlords. Structures are left in such a state of disrepair or abandonment that public safety comes into question. In a few cases, there is no option but to demolish a building that has reached the point of no return. Often referred to as "demoli-

tion by neglect," this condition can be counteracted by including provisions in a local preservation ordinance that require all property to be maintained to minimum standards. Generally this means that water, vagrants, and vermin should not penetrate the building, thereby requiring property owners to keep historic buildings stable. These provisions are referred to as the affirmative or minimum maintenance clause of an ordinance. Such provisions have proved very effective in communities where neglected properties are a problem.

Charlottesville, Virginia, has an affirmative maintenance provision that prohibits the owner or person in charge of regulated property from allowing deterioration. Some of the prohibitions include: deterioration of exterior walls, roofs and chimneys; ineffective waterproofing; peeling paint, rotting and other forms of decay. This ordinance is effective in preventing demolition by neglect since it requires repairs at an early stage in the deterioration process.

The anti-neglect provision in the Petersburg, Virginia, code is cast in terms of the repairs that can be ordered, rather than the conditions prohibited: "The owner of any building or structure, which is located within the historic area, shall keep such structure properly maintained and repaired. . . ." This ordinance requires prevention of only serious structural defects threatening permanent damage to a structure—a requirement that allows considerable damage to occur before repairs can be mandated.[11]

CASE STUDY:

Pocatello, Idaho

Pocatello is unique, not only in the name it shares with no other cities, but also because of its downtown historic district which is one of the most diverse and well-preserved in the region. The district was first placed on the National Register in 1982. The Downtown Historic District (DHD) was created three years later when, after the demolition of a historic building, concerned citizens established what is now the Historic Preservation Commission (HPC). Today the DHD encompasses all or part of 18 city blocks and is composed primarily of one and two-story commercial buildings.

In 1987, the Pocatello city council adopted a sign ordinance requiring that signs proposed for placement in the DHD be reviewed and approved by the commission before issuing a sign permit. The commission, in addition to ensuring conformity with other standards set forth in the ordinance, evaluates the general appearance of the sign and ensures its compatibility of size, color, style and material with the building on which it is mounted, as well as with neighboring buildings. Signs within the district must be constructed of wood or metal with internal illumination prohibited. Neon signs, however, are permitted due to their historic significance.

The commission recently completed a sign survey for the DHD in order to present a structural, cosmetic, and cost analysis for possible rehabilitation of the 20 historically significant downtown signs. Information obtained from the survey has already helped preserve a Greyhound Bus neon sign featuring a running greyhound. The objective of the study was achieved—a historic sign was saved rather than being removed. The HPC has had a proactive role in the preservation of downtown signs rather than waiting to react to applications for sign replacement.

Prepared by Matthew G. Lewis, principal planner, Pocatello, Idaho.

Land Use Provisions

Most preservation commissions deal primarily with design changes in districts. They are charged with making sure that proposed alterations are compatible with the character of the district. Because it is the underlying use of the land, e.g., commercial, multi-family, single-family, or light industrial, that can ultimately determine how a given parcel will be developed, the commission can be placed in the uncomfortable role of trying to make a square peg fit into a round hole. The district's character may have been formed by the kind of activity that historically occurred there. For example, a commercial area made up of locally-owned, small businesses might be forever changed when larger national chains or franchises replace them. For these reasons, more and more ordinances spell out a clear relationship between the design decisions and land-use decisions made in a historic district.

Reviewing Local Government Activities

Many local governments exempt their own undertakings from the ordinances adopted to protect historic areas, even though one of the largest owners of historic buildings in a community is often the local government. For this reason, many local preservation statutes now address how governmental action will be reviewed by the commission. The majority of these provisions state that the preservation commission will have the opportunity to review and comment on governmental activity that will affect historic properties. Its comments usually are not binding on the local government entity.

Some local governments feel that since they are imposing historic district regulations on the private citizen, they should also be compelled, as a

matter of policy or law, to follow the same regulations. It should also be noted that state and federal actions are often not bound by local ordinances. Many state governments are enacting environmental review laws similar to the federal environmental review process to overcome this lack of protection. The programs require a special report and recommendations for mitigation methods when federal or state actions or funding threaten a designated historic resource.

Review of Historic Interiors

Many local preservationists have interpreted their local ordinances in such a way as to permit the regulation of the entire building, while others feel that a separate designation process is needed to recognize and protect historic interior spaces. Some local laws are written in such a way that only those interiors to which the public has ordinary access can be designated and regulated. Other commissions feel that they are specifically prohibited by state enabling laws from designating and reviewing interiors. Indianapolis, Seattle, Boston, New York and Asheville, North Carolina all have interior designation programs.[14]

When a locally designated historic commercial property went up for sale in 1990, the Sacramento Design Review and Preservation Board (DRPB) and staff were concerned about reuse alterations that might be harmful to the landmark's significant interior. Citing the intent of the ordinance as protection of historic resources for the "benefit of the public," the DRPB amended the preservation ordinance requiring DRPB design review of alterations of interiors considered as "public spaces" in designated properties. Hotel lobbies, public bank interiors, and similar spaces are afforded an added level of protection through this provision.[15]

Additional Duties

Many commissions are authorized to conduct a wide variety of research and community service activities. They sometimes seek funding, administer grants, receive and manage property, conduct planning studies, maintain local registers or inventories of historic properties, conduct educational programs, maintain resource centers and libraries, and provide technical assistance to the public. These additional duties can be limitless and should be considered carefully. A comprehensive local preservation program goes well beyond design review in historic districts. Doing more than designating and protecting historic districts, however, may be beyond the capabilities of newer commissions or commissions with small budgets and little or no staff assistance. Cooperation between local government agencies and delegation of additional responsibilities to downtown business councils, neighborhood associations, nonprofit preservation organizations, or historical societies can help the preservation commission develop long-term comprehensive programs.

Historic Districts and Local Planning Issues

The community planning process can be compared to a jigsaw puzzle, with historic preservation as one of the significant pieces. Of course, the planning process is able to operate without preservation as a component, as it has for decades in many communities, sometimes resulting in wholesale destruction of historic resources and the creation of nameless and faceless planned failures. When historic preservation is part of a comprehensive planning strategy that includes ALL of a community's resources, the results can be impressive. The identification and protection process of local historic districts, often coupled with a landmark protection program, works with other elements of a comprehensive plan to complete the community development picture.

Zoning, for example, is one of the chief components of the community planning process. Zoning defines areas or districts and specifies how land in them can be used. Generally

In Pocatello, Idaho, review procedures in the downtown historic district extend to historic signs.

Photo: Matthew G. Lewis

CASE STUDY:

Local Innovations in Bozeman, Montana

The historic preservation board in Bozeman, Montana, devised an innovative program, the "Contributed Services Bank," to help property owners comply with historic district guidelines. The concept was quite simple: ask preservation-minded architects, historians and other professionals who had demonstrated sensitivity toward historic properties to contribute 20 hours of professional time over a year's period. The time would be "banked" and subsequently "granted" to property owners considering improvements.

The time granted to property owners was limited to two hours from each professional. As the professionals toured the property with the owners, they made suggestions, answered questions and sketched ideas. The owners were free to accept or reject the suggestions. Although some ideas were rejected, in most instances they were enthusiastically received and implemented. In some cases, those same professionals were retained by the owners to detail designs, research property histories or assist with restoration.

Bozeman's newly-created design review board has now assumed much of the role of the Service Bank. The Bank, however, played a critical role in helping citizens protect the city's historic resources. One property owner stated, "I had no idea how to implement my rather vague aspirations for my newly acquired property. The [Preservation Board] advisors helped me sort out my thoughts and recommended the kinds of improvements that would enhance the character of my house."

Prepared by Keith G. Swenson, AICP, planning consultant, Bozeman, Montana.

zoning regulations specify the maximum size of buildings, lot sizes, the required open space around buildings, the number of parking spaces required, and any number of other development criteria.

Zoning must be closely coordinated with the goals of the local district and landmark designation program. When zoning regulations and preservation goals work at cross purposes, both suffer. Coordination can take place in a variety of ways. Simple strategies involving increased communication between municipal agencies and review board members are important. Zoning and preservation ordinances should include provisions spelling out their interrelatedness and ways to remedy potential conflicts between the regulations.

The following questions are a starting point for identifying conflicts between zoning and preservation:

1. Are historic residential neighborhoods with single-family houses zoned for single-family residential or other compatible uses?

2. Do lot sizes and the building setback requirements from the front lot line match historic patterns?

3. Do separate zoning districts with widely divergent regulations (one for high-density commercial use, one for single-family residential, for example) divide a single historic district?

4. Does zoning for areas immediately surrounding a historic district provide an adequate buffer against development that would have a negative impact on the historic area?

5. Do commercial zones allow much taller and larger buildings than currently exist in the historic district?

6. Do commercial zones permit automobile-oriented commercial uses, such as drive-through facilities with large parking lots, that conflict with the traditional street-front and pedestrian orientation of historic commercial buildings?

7. Does zoning require so many off-street parking spaces that it hampers the rehabilitation of historic buildings or the construction of compatible new infill buildings?[36]

Similar analysis should occur for every municipal planning activity, including transportation, housing, social services, infrastructure and capital improvements, parks and recreation, and economic or industrial development.

The American Planning Association (APA) has endorsed the concept of identifying and protecting historic resources through local survey and designation programs by adopting a sweeping policy regarding local preservation:

"The APA supports efforts by local governments to integrate preservation into the land-use planning process, including incorporating preservation goals into the community master plan and reconciling and coordinating preservation policies with local development policies. The reasons for this support are that a sound preservation program must be based on a survey, a historic preservation ordinance and plan, and economic and technical assistance in coordination with other community policies and ordinances. Local governments should work with citizens and local interest groups to make preservation a part of the overall effort to foster and promote the general welfare of the community."[37]

Is Your Community Ready to Establish a Local Historic District?

You might be wondering, is my town ready for a district? How do we do it? Where do we turn for help? There are seven essential questions to consider before establishing a local district.

1. What is the method for locally designating and protecting historic resources in my state?
Each state has a different set of enabling statutes to guide local governments in establishing preservation commissions. Most states have enacted very specific laws that establish parameters for commission composition, provisions to ensure due process, definitions covering what constitutes a local district or landmark, as well as exemptions, economic hardship determination, and penalty provisions. Check with your state historic preservation office (SHPO), statewide preservation organization, statewide planning association, National Trust for Historic Preservation regional office, or municipal league to find out how your state has enabled the creation of local districts.

2. Is there local support for a preservation ordinance, review commission, and local districts?
Local support, especially the support of property owners in the proposed districts, is probably the most critical element for local historic district establishment. Even before preliminary planning can take place, a positive climate regarding preservation must be created. A historic resource protection program cannot be implemented until a comprehensive community education program is well underway, and the program cannot be maintained without ongoing community education.

3. Can the administrative aspects of historic district regulation be handled effectively?
This question is often the first one asked by elected officials and is usually phrased as, "How much is this going to cost us?" A community should expect that new administrative activities and costs will accompany the creation of any new regulatory process. Although this might be seen as burdensome to existing staff and dwindling budgets, most commissions are willing to seek special grants and staffing arrangements to facilitate operations. The additional work associated with a new commission and district protection program is rarely so great as to prohibit its creation. Duties usually include processing forms, keeping minutes, advertising, notification and posting requirements, and providing open meeting space. This work is not overly cumbersome for most local governments. Generally existing personnel within a planning office, shared staff with a local nonprofit organization, or a regional planning agency can handle most of the day-to-day activities. As the benefits of a local protection program accrue, local governments often appropriate municipal funding to assist in the commission's work. As more districts are designated in a community, many governmental units find it beneficial to hire a full-time preservation planner or preservation officer.

4. Will this mesh with the current planning policies in my community?
Almost every American community has some sort of planning process in place. It may be very organized and sophisticated or might appear random and haphazard. It is important to realize that preservation decisions made as part of a local regulatory process will reflect the way other planning decisions are made. If land-use, zoning, and planning judgments are poorly made and are not regularly enforced, it is highly probable that preservation decisions will suffer a similar fate. The architects of the plan to establish a local district must carefully analyze how a new aspect of local planning will relate to the existing decision-making process. How will the local historic district relate to signage and billboard control, beautification programs, downtown revitalization strategies, transportation policies, neighborhood associations, and tourism efforts? All of these local programs are designed to propel communities toward a common goal, but if a discrepancy exists between community development policies and the goals for setting up a local district, that district will be politically difficult to establish and even harder to administer.

5. How will the commission make decisions? Will there be training opportunities?
One of the questions property owners most frequently ask is, "How will this board decide what appropriate means?" This is a valid query and is at the heart of successful commission decisions. Often, relevant professional disciplines, such as history, architecture, or law, are not represented in a community or available professionals are not able to serve. Many local review commissions have no option but to appoint non-professional or lay members. While it may be argued that it is important to have a few lay members to balance the commission, the need for professional expertise on the commission cannot be overemphasized.

One very important mechanism for ensuring consistency and uniformity is design guidelines. Design guidelines are generally district-specific and spell out appropriate changes for a variety of historic resource types, as well as setting standards for new construction. The design guidelines help the commission to determine appropriateness and compatibility. They provide guidance to the developer and the property owner as well and strengthen the commission's decision if an appeal is filed. Some communities consider guidelines so important that they require them in conjunction with designation.

Many commissions base decisions on The Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*. The Secretary's Standards were developed for all national preservation programs and for advising federal agencies on the preservation of properties listed or eligible for listing in the National Register of Historic Places. They provide a good basis for

district-specific guidelines but, alone, they rarely provide enough guidance for non-professional commissioners and property owners who have not been exposed to basic preservation and design principles. Therefore, many commissions augment the *Secretary's Standards* with guidelines developed internally or by a design, planning, or preservation consultant.

How will the commission learn to use guidelines, or for that matter even know that guidelines should be developed? Training is the answer. Since the Penn Central decision in the 1970s and the more recent creation of the CLG program, many consultants, national preservation and planning organizations, and especially SHPOs have developed preservation commission training materials and workshops. It is possible to attend a training session for commission members on architectural history, the intricacies of design review, or the legal nature of ordinances in any of the 50 states. The SHPO, the National Trust for Historic Preservation, the National Alliance of Preservation Commissions, and statewide nonprofit preservation organizations (and especially statewide associations of commissions) are sources of information about the available training opportunities.

6. How will the commission's decisions be enforced?
A commission's effectiveness is determined by how well its decisions are enforced and how well it can withstand legal challenge. Are building inspectors and code officials fully aware of the commission's authority? Is the city attorney confident that the commission's decisions will stand up in court? Do elected officials see the commission as an asset in the community? Are they willing to affirm the actions of the board and levy fines and penalties for noncompliance? The design review authority of the commission must become a legitimate component of a community's regulatory framework. Municipal staff and elected officials must be ready to enforce all provisions of the preservation ordinance, even when enforcement might be an unpopular notion.

7. What is the next step?
The next phase is determined by the conditions in each particular community. For some towns the stage has already been set with preliminary historic resource survey work. In other cases, an active nonprofit preservation organization may sponsor educational programs, a community may already have a district or districts listed in the National Register, or there may be a vocal Main Street program or neighborhood association that has spearheaded economic awareness of historic preservation. Many communities are in the process of implementing or updating comprehensive plans and include preservation and the creation of historic districts as one of the areas to investigate.

Whatever your situation, the next step is a broad-based community education campaign. No effort, especially a historic preservation initiative, is launched properly until constituent attitudes are assessed and the public has had the opportunity to learn about the issue. Advocacy, the heart of establishing a strong preservation ethic, is the secret to making preservation work at the local level.

Obstacles

This booklet would be remiss if the obstacles one might encounter when attempting to establish a local district were not discussed. The benefits of local designation are fairly obvious by looking at the well-known, locally regulated districts such as the Old and Historic District in Charleston, South Carolina; Beacon Hill in Boston; Pioneer Square in Seattle; the Vieux Carré in New Orleans; and the Germantowns in Columbus, Ohio, Memphis, and Philadelphia. The arguments against a district might not be as obvious as the benefits. Dissension is very real and should be anticipated. The following list includes some possible arguments from those contesting local districts:

1. Perceived Invasion of Private Property Rights
Commissions and local preservationists encounter the private property rights argument: "This is my house and I don't want someone telling me what I can and can't do with my property." Current laws for regulating property use, which include zoning, height restrictions, and other regulations, as well as preservation laws, have been found constitutional by state courts and the United States Supreme Court.

Numerous publications, some listed in the resource section of this booklet, will help you explore the legality of preservation controls related to aesthetic and economic purposes. Lawyers, especially local government attorneys, and organizations devoted to preservation-related legal issues will be of invaluable assistance in pursuing local historic designations.

2. Fear of Additional Expenditures
Many property owners think that a local ordinance will require costly improvements. They fear that appropriate preservation treatments will be more expensive than those they might plan otherwise. This is not often true. In most cases, design review and the technical assistance provided by commission staff result in substantial savings for property owners and ensure that improvement expenditures will be a better long-term investment.

There is also concern that an ordinance and commission will result in increased expenses to local governments, thereby increasing the burden on taxpayers. There is a small amount of truth to this in the short run, but long-term benefits derived from local district regulation, such as the stabilization of property values, increased community pride and its associated benefits, and economic revitalization, far outweigh any initial public expenditures.

3. Fear of Displacement and Gentrification

Another concern—the result of real estate trends, not necessarily district designation—is that accelerated property values in historic districts will cause tax assessments to rise. Disabled or retired property owners and renters on fixed incomes, for example, fear that increased tax liabilities will result in involuntary displacement and excessive economic burdens. While displacement does occur in older areas of communities, it is not linked to district designation, as such, but is more the result of popular tastes, housing availability, and other economic forces.

The displacement argument persists, however, and it presents a serious challenge to preservation advocates. Proponents of the designation often find that they are battling both sides of the same argument. One group of property owners will claim that their property is being devalued as a result of the designation, while another group, generally low- and moderate-income persons and businesses, claim that the property value will rise and the inevitable rent increase and tax hike will force them out of the area.

This is a delicate situation and anticipating it can avoid a very uncomfortable public dispute. Careful analysis of the socio-economic status of residents of a proposed district will reveal any potential for the displacement charge. Renters' organizations and anti-displacement housing programs, such as "circuit-breaker" tax relief and rent relief, can be called into play prior to district designation.

Circuit breaker programs, for example, exist in more than 35 states. Their provisions vary, but most provide homeowners with incomes below prescribed limits a rebate of a portion of their annual property tax payments. Renters may be eligible too. A percentage of their rental payment is considered part of their landlord's property tax liability and is refunded annually. In Washington, D.C., elderly, low-income owners and renters are eligible. [10]

CASE STUDY:

The Designation Process in Newport, Kentucky

In Newport, a northern Kentucky city located directly across the Ohio River from Cincinnati, the designation of the East Row Historic District resulted in a step-by-step process which is used as a model for other cities pursuing local historic district designations in Kentucky.

1. Do your homework, proceed carefully, and produce only results of the highest possible quality.

The Newport Historic Preservation Commission (NHPC), created by the City of Newport in 1989, targeted the East Row area of Newport as having strong potential for designation as a local historic district. Two years before the district was designated, the NHPC obtained a matching grant-in-aid from the Kentucky Heritage Council through the Certified Local Government program to conduct a historic resources survey and produce design guidelines. The NHPC hired a consultant with a good track record for producing high quality design guidelines to conduct the survey, which established proposed district boundaries and contained a description of each building and an overview and history of the district. This information is the basis for walking tours, publications, and brochures.

NHPC produced a 70-page design guidelines booklet which was important to the success of the local district for a number of reasons: the guidelines were specific to Newport's architecture; drawings of building types and graphic examples of do's and don'ts were used; and each guideline has a reference number of which mention is made when the NHPC makes a decision.

Several issues arose during the designation process, such as charging a fee for the Certificate of Appropriateness, creating a buffer zone around the historic district, and the enforcement process for commission decisions. In each case, city staff researched the issue for the NHPC, drawing on resources such as the National Alliance of Preservation Commissions, the SHPO, the National Trust for Historic Preservation, the National Center for Preservation Law, and individual commissions in Kentucky and across the country.

Several public meetings to discuss the proposed district were planned. At the largest of these public meetings, speakers included the consultant who produced the survey and guidelines, who gave a presentation on the unique aspects of Newport's architecture; the state CLG program coordinator, who gave his endorsement and a statewide perspective on local districts; and the mayor from a nearby town, who spoke on the effectiveness of local districts in his city. Roughly a third of the 250 attendees had questions or concerns about the district which were answered by speakers or NHPC members.

2. Counter opposition with organized support.

In May 1990, the city commission held a public hearing to make a decision on the boundaries of the district. About 50 people showed up with "WE SAY NO" protest signs to picket the meeting. Local residents in favor of the district wore buttons saying "I LOVE HISTORIC PRESERVATION AND I VOTE." Local residents went door-to-door distributing flyers that explained the designation process. The local television station gave unbiased coverage on the evening news.

3. Obtain a wide cross section of district support.
For two years the NHPC educated neighborhood organizations, friends, and civic associations about the benefits of a local district. The NHPC provided information to local politicians and city staff to make sure that they understood the ramifications of local designation.

The city commission, however, decided to exclude an area from the edge of the district where a large number of property owners opposed to the district. The original district proposal contained 1,150 buildings, and the final designation covered 1,100 buildings. This was not viewed as a setback as much as it was seen as a response to local political considerations.

4. Always educate.
Pre-designation education efforts included two informational handouts distributed door-to-door, a certified letter explaining the district designation, newspaper articles, and a series of public information meetings.

The NHPC planned a dedication ceremony for the newly created East Row Local Historic District, with a well known Cincinnati news commentator/art patron and the Kentucky state historic preservation officer as guest speakers. They brought out the police department's color guard, had a walking tour of the district, and served a special cake decorated to look like some of the East Row's distinctive row houses. Through the aggressive volunteer efforts of a public relations consultant who was a resident of the district, *The Cincinnati Enquirer*, four radio stations, and three television stations covered the event.

Newport's varied architecture is reflected in this poster promoting the historic district.

The NHPC continues to stress education as a key element in the success of the district. An easy-to-read brochure explaining the design review process was mailed to every property owner in the district, every licensed contractor in the city receives a letter on the design review process twice a year, and articles are regularly published in the local *Newport News* and neighborhood newsletters reminding residents of the review process. The NHPC has worked to promote the district in a variety of ways: printing a poster highlighting buildings in the historic district, holding a Christmas carriage tour and spring walking tours, printing a walking tour brochure, printing a history workbook for schoolchildren, and installing cast-iron signs marking the East Row Historic District. City staff has worked to create a low-interest loan program for rehabilitation, promote enterprise zone incentives, and encourage the use of federal rehabilitation tax credits.

Newport's efforts have not gone unnoticed. The Miami Purchase Association for Historic Preservation, a nonprofit Cincinnati organization, recently awarded both the City of Newport and the NHPC a bronze plaque for "careful education and promotion of the concept of historic preservation and for working together to create the largest local historic district in Northern Kentucky."

Prepared by Theresa Brum, director of historic preservation, City of Newport, Kentucky.

4. Fear of the Unknown
In many communities, there is a basic mistrust of change. In smaller communities with less sophisticated planning programs, a preservation ordinance and commission may be the most advanced type of appointed board that the community establishes. Residents and community leaders may believe that such planning is too complicated and beyond their intellectual and administrative capability. Although district regulation has been around since the 1930s, real growth in ordinances and commissions did not occur until the 1970s and 1980s, and most ordinances were adopted by big cities. As more and more municipalities embrace the concept, it will become a less frightening option for other communities.

One of the best ways to combat this fear, and others that arise, is to invite to your town representatives from nearby towns that have had positive experiences with local districts. Hearing it "straight from the horse's mouth" can help to assuage any uneasiness that your community might feel.

5. Apathy
Many American communities suffer from political lethargy. Voters feel powerless, and elected officials lack vision. As a result, innovative community improvement plans are rarely implemented, and the local planning process becomes stagnant. Local preservation programs have a difficult time thriving, or in some cases surviving, in this kind of environment. Community leadership development programs can help move citizens out of this inertia. In some cases, preservation awareness has been the catalyst for filling a local leadership void. State municipal associations, university-based governmental training programs, departments of community affairs or similar state agencies, and national organizations can assist in cultivating a strong leadership base.

Programs such as the National Trust's Preservation Leadership Training combine specialized preservation skill training with broad community leadership skills. This program serves both to identify and train local leaders who possess some degree of interest in preservation and to train preservationists in the skills they need to become leaders. Developing a better understanding of the role of preservation in the community and the roles and relationships of public and private partners increases the ability of commission members and others to act as a positive force for reaching both preservation and community goals.

6. Development Pressure/Loss of Market Value
As a result of private market forces, especially in real estate development, any regulation that might limit the full developmental opportunities derived from a piece of property is frequently viewed as a threat to a developer's ability to make a profit. Unfortunately, in many markets, "highest and best use" is seen as a divine right. This principle can be extremely destructive when applied to historic districts.

Because of the perceived loss of market value, a vocal portion of the development community, as well as commercial property owners and government officials desiring the jobs and revenue brought in by development, might oppose a local ordinance and the establishment of local historic districts. The purpose of the ordinance, however, is to manage growth and avoid rapid, insensitive and ruthless exploitation of significant, vulnerable, and unprotected areas, not to stunt development.

Proponents of the ordinance should counter the arguments of the development community by pointing out that regulation does not freeze a district in time, but allows it to grow, change, and improve. It is wise to garner the support of developers who are sensitive to preservation concerns. Real estate professionals, bankers, and architects who have been positively involved in historic preservation, especially those that have benefitted from the historic rehabilitation tax credit projects, are good candidates for lending their support.

In many communities, especially where development pressure is intense and extreme increases in lot density are common, "transfer of development rights" (TDR) can be one of the tools to counter the loss of market value argument. TDR is a means by which a developer is permitted to build more density on one site by building less (or nothing at all) on another. The unused development rights of one parcel are thus transferred (often in exchange for money) to the other, although the underlying restrictions of the zoning code are still in force.[1]

7. Dislike for "Bloated Bureaucracies"
Many citizens believe that government already imposes too many layers of regulation. They see the creation of the review commission and the designation of local districts and the accompanying regulations as an additional burden. Some citizens think that efforts should be made to restrict government rather than expand municipal functions. While this might seem a good idea in theory, the reality of cutbacks in federal domestic programs, the accelerating pace of development, a more transient and mobile population, global communications, and rapidly disappearing historic resources all demand that governments manage their resources more wisely now than ever. This reinforces the need for better planning with specialized elements designed to protect specific resources.

8. Lack of Awareness of the Significance of Historic Resources
Many citizens question whether certain resources are worthy of preservation. For example, many people do not recognize the historic value of early 20th-century resources or vernacular building techniques. As the preservation movement itself has learned to embrace more contemporary and less recognized resources, the general public should also be encouraged to understand their significance and importance. Realizing that there might be a bias against certain classes of historic resources, it might be more prudent to initially create local historic districts comprising resources that are easily recognized by the public as historic.

A community's first local district might be a high-style Victorian-era neighborhood that is fairly homogeneous. Subsequent designations of less obvious, more obscure historic areas might require an intensified community awareness program before the designation process is initiated.

Summary

Although New York City garnered the spotlight because its landmark case reached the U.S. Supreme Court and Charleston boasts the first historic district and architectural review board, the use of local historic districts as a means to manage growth and change is not reserved for big cities, nor should it be perceived as a planning tool used only by old east coast cities. Local historic districts are for ALL communities. District designation can help accomplish community goals in any size village, town, city, township, county, or parish, from the smallest to the largest, from colonial Virginia to suburban Phoenix.

The evaluation of historic resources at the local level and development of protection strategies results in better communities. Pressures from a changing economy, rapid development, and declining populations can all contribute to the demise or success of a particular place. Community leaders and government officials must plan for a successful future. There are tough decisions to be made and not everyone will agree all the time. Solutions can be found through careful consideration of the many planning tools available to a community.

A local historic district is but one of those tools and it has proven to be a very powerful one. Regulating change within historic areas improves the quality of life for citizens. Creating local historic districts will not automatically produce clean, beautiful, and vital places, but such regulation may help avoid an unplanned atrocity. Used in conjunction with other tools and balanced with other community development options, historic districts protect investments and spur revitalization. They continue to make it possible for countless people to enjoy, appreciate, and learn from our past. They have helped parts of America become destination spots rather than places to bypass.

Acknowledgments

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