

On Preservation Plans and Planning

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It's interesting. All of a sudden everyone and his/her brother/sister in the preservation movement has come 'round to thinking about "planning." But "planning" is a murky concept, in that the word itself is used in different ways by different people in different circumstances. Before one can talk about what planning has to offer to historic preservation, it is useful to break the idea down into something akin to food groups, of which there are basically five.

All Planning is Divided into Five Basic Food Groups

First, there is planning by visualization, or sample: The Williamsburging of my home town of Chapel Hill, North Carolina, which saw literally dozens of downtown buildings constructed or remodeled in a specifically neo-Colonial style in the immediate post-World War II years, is an example. The town council had visited Williamsburg, thought it a fine model for Chapel Hill, and engaged an architect to prepare some large, watercolor elevations showing what the town would look like if all future building were done in this style. There was no design review board or preservation commission, no regulations, no ordinance -- the renderings merely hung on the walls of the council room for many years. But within a short time most downtown buildings were constructed in this style, largely because of the persuasive value of a "public policy" articulated by nothing more than some drawings hanging on a wall.

On a much larger scale, Edmund Bacon's famous 1960s model for the redevelopment of central Philadelphia furnished another example of this approach, as did Wacker's Manual for Chicago earlier in the century. Indicating graphically through drawings or models what things will look like when built is one important kind of

"planning," even though not often labeled as such. By and large, we tend to overlook the persuasive value of drawings as an important approach to policy-making. These can have a special relevance to historic preservation, since the potential for imaging the restoration of an old building or neighborhood is usually much greater than the potential for imaging a new road, jail or firehouse. Perspective sketches and axonometric drawings are especially useful, since plans, sections and elevations are meaningless to most elected officials (and many planners these days). This graphic approach to planning-as-policy depends heavily on imagery for its success, and the technique is thus more apt to be employed by individuals trained in architecture or landscape architecture (who nonetheless, when it suits their purposes, do not hesitate to also describe themselves as "planners").

Second, there is so-called "project planning." This is a process that comes into play when some unit of government (federal, state or local) proposes to do or build something -- to construct a road or highway, put up a public building, dredge a channel, etc. Project planning usually involves something to be carried out or built immediately or in the near future, which gives a sense of urgency to both proponents and opponents, who can then choose up sides.

The project planning approach builds essentially on the consumer movement of the 1960s and 70s. Like the red, skull-and-crossbones label on a household product describing the contents and any harmful consequences of eating the same, project planning is basically a disclosure process -- a sort of let-it-all-hang out statement by the government administrators proposing the project, describing or disclosing any potentially bad consequences to the environment or the neighbors. Once the potentially harmful impacts of a given project are laid on the table, so to speak, the "will of the people" can be energized in public meetings, administrative proceedings, or in court. Typically, these are called "environmental impact statements."

This early warning or disclosure process makes it possible for opponents to slow

down or stop a project in different ways and at several levels of intervention. The most straightforward and obvious tactic is simple political pressure. A somewhat more ritualized approach of this kind would be like Section 106 of the 1966 Preservation Act, requiring only the review and comment of experts, perhaps coupled with binding mitigation measures. An even tougher project planning approach would be like that embodied in Section 4(f) of the 1966 Department of Transportation Act, which for all practical purposes amounts to an absolute prohibition on the use of certain resource lands for highways, once intentions are announced. Notching the level of pressure up a bit, a next step would be to delay the project by court action on procedural grounds, or challenging the adequacy of disclosure. At heart, however, the National Environmental Policy Act, the Little NEPAs of the states, and Section 106 of the National Historic Preservation Act are all grounded on a disclosure process of one kind or another.

I sometimes call this approach the "MAD" technique of planning, an acronym for "Maximum Administrative Delay" or "Tie the bad guys up in red tape as long as possible!" The application of this kind of "planning" to preservation is by now well established.

A third kind of currently fashionable planning is called "strategic" planning. It looks at proposed projects or proposals and examines them "in depth" and from every angle. The thrust of strategic planning is to insure that every possible alternative to a proposed course of action is considered. It is sometimes cynically referred to as "gumming the problem to death." Strategic planning tends to be favored by officials who, for whatever reasons (typically political or related to job security), are unable to make a hard decision regarding a given course of action and take refuge in the trendy processes of "mediation" and "negotiation." This makes life easier for planners, since they may safely remain in the middle ground as negotiators, but the process often results in an unfortunate compromise solution to the immediate problem. Often it creates new and bigger problems down the road.

Strategic planning is not usually very comprehensive in terms of subject matter or geography. It tends to result in a by-product called "Small Area Plans," or SAPs. At worst, these are often hurriedly prepared as a backup response to controversial, large-scale planned unit developments subject to conditional or special use permits, site plan review processes, etc.---typically, politically-favored development proposals placed earlier in front of the council or planning agency when the public wasn't looking. Too often the SAP is prepared as an after-the-fact rationalization for changing a pre-existing, official land-use or other comprehensive plan component that prohibits what the developer wishes to do. It is often a stretch to call SAPs and local site plan review processes "planning," since as often as not they are an after-the-fact rationalization to permit something that has already been decided.

Small area plans can, of course, be useful in taking the land use component of the local comprehensive plan to the next level of detail. But there are two serious disadvantages to this approach. First, this kind of detailed planning -- more akin to design than "planning" -- should happen only after a land-use plan is officially adopted and in place. Too often SAPs are not much more than a tortured rationale for "spot" zoning, which, when approved, seeks to provide an a excuse to tear the approved land use plan apart or ignore it altogether. The second disadvantage is that small area plans are not usually thought of as having much to do with historic preservation -- unless, of course, the proposal at hand involves the tearing down of an old building or neighborhood, in which case the immediate NIMBY or BANANA reaction causes all hell to break loose. I would emphasize that this kind of small area planning is not planning. It is responding, which is the very antithesis of coherent, comprehensive planning. Unfortunately, such "anti-planning" is now so widely acceptable both politically and legally in many states that, however poor a tool for preservation and growth management, it will probably not go away any time soon.

A small area plan can be a wonderful thing for a historic neighborhood or a

conservation district in providing a design vision -- guidelines, goals and objectives for public and private projects -- as well as a direction for public and private investment in special areas. But only exceptionally are historic area SAPS born with this kind of thinking in mind. Mostly they are motivated for the reasons noted above.

A fourth approach to planning is sometimes called "policy" planning. This approach carries a halo, is essentially verbal, and goes along at the level of "a chicken in every pot" without worrying too much about details or the fact that at an individual level, some may prefer pan-fried chicken or even roast beef. But because it approaches the future at such a generalized and lofty level, this approach defers or avoids nasty fights about which street to widen or whose neighborhood gets the next public housing project or half-way house. It relies heavily on the use of big words and global objectives rather than graphics. If graphic materials -- plans, sections, elevations, perspectives, etc. -- are incorporated, they tend to be "illustrative" or exemplary rather than deal with specific situations or areas. It may be good policy planning to adopt a policy statement like "Development programs shall, when possible, prefer existing buildings and areas over new construction." However, the application of such a broad principle to a specific situation at a later date is usually another matter, and the outcome on the ground is more likely to be determined by political or financial considerations than by any coherent thinking about the best future environments. "Sustainability" is a fine example of policy planning at its best. Unfortunately-but, happily for planners and true believers-it does not even rise to the level of the Ten Commandments. The reality is that almost all development proposals and many preservation projects have both sustainable and unsustainable elements. Which ethic lands on top in a specific situation is more a matter of whose ox is being gored, rather than adherence to noble principle.

A fifth approach to "planning," now coming back into favor once more, is so-called "comprehensive planning." This approach relies on the use of maps, or combinations of maps and words, to spell out in advance -- usually according to five-, 10-

and 15-year time frames -- which areas should be developed for what purposes, where and how; and which areas should be sterilized against development. They are based on population and economic base projections, land capability analyses, and so on. Land-use plan elements are accompanied by other comprehensive plan elements showing how new development will be serviced with public utilities and facilities (called "infrastructure") and capital budgeting programs to pay for them. The comprehensive plan approach is nothing more or less than the old, so-called "master plan."

Typically, a comprehensive plan includes a variety of elements such as land use, transportation, public utilities and facilities, parks, open space, housing, preservation, urban design, and the like. This sort of planning was popular in the 1950s (federal money under section 701 of the 1949 Housing Act paid for it), but it was displaced in the 1960s and thereafter by the drift of planners and planning schools away from dealing with hard growth and design issues to soft sociological and economic approaches focusing on people, poverty, and policy rather than on the physical environment. Ironically, this older approach is still much favored by other western nations.

There is value, of course, in projecting (in the land-use plan component of the "comprehensive" plan), where and what kind of growth should or should not take place as a matter of public policy. This makes it possible to begin to deal with the marginal frictions that take place at the borders of neighborhoods or the places where one land use meets another that may be incompatible with it. It tends to bring planning down from the clouds and to relate it to specific areas on the ground, thus highlighting potential conflicts and opportunities in land development. Such planning also makes it possible to relate growth and change in land uses throughout the area to infrastructure needs that are to be financed long-term and provided by government: roads and transportation, schools, utilities, and public facilities of one kind or another -- to insure that public investment is not wasted by excessive over- or under-building, but kept in line with the actual needs of growth.

Unfortunately, most states still consider "planning" and "plans" just that: well-intentioned statements of policy that are always subject to change at the whim of a later elected council that had no hand in preparing and adopting it. And that there is a huge disconnect in most states between the objectives laid out in the official land-use plan and the reality of the zoning ordinance to implement it needs no elaboration. (The British repaired this disconnect in the Town and Country Planning Act of 1947. We are way behind.) Again, the widespread use of conditional and special use permits and districts, a legal adaptation of otherwise illegal spot or contract zoning which favors developers and progress-minded governing boards, doesn't help much.

Nonetheless, long-term, comprehensive land-use planning of this kind is slowly coming back into its own, notwithstanding the efforts of planners untrained in its methods or in design to want to hide behind some of the other approaches to planning described earlier. Historic preservation can and should be an important aspect of land-use planning, and every comprehensive plan should contain a preservation element. Typically, this doesn't happen, though, for the reason that preservation became something of a public imperative during the very period -- the 1970s and early 1980s -- when land-use planning had gone out of fashion. The historic preservation component of the plan is the subject of the remainder of this article.

Practical, Political and Fiscal Benefits of a Preservation Plan

What are the specific benefits of having a preservation element in the comprehensive plan for a given area? Some of the benefits are simply "practical." Others are political or financial. In some instances, there may be legal consequences as well.

First, there are financial benefits, such as the scheduling, financing, and acquisition of land for public improvements, open space, parks, and other public facilities within historic districts or neighborhoods. In this way historic districts begin to get the attention they deserve in the city's capital improvements budgeting and planning process (which covers the big stuff like schools, parks, open space) as well as in the annual

operating budget (neighborhood services like garbage collection, health, employment and jobs, schools, child care, police and fire protection, etc.) A preservation element in the city's official comprehensive plan tends to bring historic neighborhoods into the real world of city hall in a forceful way that is hard to ignore. Not unimportantly, it can provide politically acceptable cover for directing public expenditure to some neighborhoods and not to others. Most important, historic neighborhoods and areas tend to be cohesive geographical areas within which there exist, or can be organized, active political constituencies for conservation and preservation. And, in conjunction with that other comprehensive plan element, land use, it can encourage appropriate uses and densities of development and discourage those regarded as inappropriate.

Second, the preservation plan element can serve as an important guide to the decisions of developers and investors. It says to developers, as a matter of official public policy: "This is a special place. Keep your sights high, don't muck around casually with this area; it is too important." The preservation plan also speaks to investors and lending institutions: "The city regards this as an important area in which public support will continue to undergird private investment." The preservation plan can say to residents of the district: "We're going to protect this area for you." To everyone, it says: "As city policy, we regard conservation and preservation as important as development." Finally, where preservation is an official part of the comprehensive plan, it becomes much easier to relate preservation issues to those of growth management, density, building height and bulk, traffic and parking, and so on. This, in turn, may make it easier to bring preservation commissions into the daily decision-making processes of local government. Presently, these commissions are perceived by most "practical" politicians as flighty people preoccupied with history and "aesthetics."

Third, a preservation plan is useful in administering the zoning ordinance. Amendments to the zoning map can be accomplished in a more orderly way, "in accordance with the land-use plan," and with a special protective eye to issues that have a

direct bearing on the preservation of older areas and buildings -- issues like density, incompatible land uses, parking, etc. Most important, the plan will often provide an acceptable rationale for politically difficult decisions such as saying "no" to the mayor's brother-in-law, who may wish to tear down a listed building for a parking lot or put up a 10-story hotel in the wrong place. It also strengthens the always politically difficult argument in favor of regulating some property owners more strictly than others, and for greater levels of public expenditure to protect important areas..

Fourth, the preservation plan, in the context of the comprehensive plan, can provide needed continuity as changes in local government administration and politics take place over time, as key players-elected and bureaucratic- rise and fall in city government. This leaves less discretion to the whim of temporary office holders, overly influential city managers, conservative city attorneys, lazy bureaucrats, and other boards and commissions who would otherwise operate with greater independence. Written, officially adopted preservation plan elements have the potential to outlive the personal preferences, whims, and terms of office of incumbent individuals.

Most of the above advantages of having a plan tend to be practical and political in nature. Other benefits are more directly fiscal in their implications. For example, experience tells us that comprehensive plan elements that spell out the need for particular facilities provide a strong inducement to prospective donors to make gifts to the city -- which, incidentally, are typically tax-deductible. The inducement lies in the assurance the plan provides to the donor that the gift is needed and will actually be used for its intended purpose. This is especially true with respect to gifts of land for parks, recreation and open space, and for civic buildings. It can be equally applicable to historic buildings and sites and other amenities.

Legal Significance of the Plan

The legal significance of a preservation plan -- and, indeed, the comprehensive plan of which it should be an important part -- will vary from state to state. A number of

states, like California, Florida, Georgia, North Carolina, and a number of others, list the preservation plan as a permitted or recommended element of its comprehensive plan. A very small number even mandate the inclusion of a preservation plan element. State enabling or authorizing legislation for the preparation and adoption of a local preservation plan element is probably not a legal necessity in most states and would be covered by state planning enabling legislation or home rule charter authority. However, the educational or promotional value of such authority can be considerable.

At this point it must be noted that other, required elements of a local plan may have a considerable impact on preservation activities. For example, North Carolina law has required for 40 years that all cities and towns prepare and adopt a major thoroughfare plan by joint resolution of the city council and the State Department of Transportation. Once adopted, this official component of the comprehensive plan becomes the basis for allocating responsibility for right-of-way acquisition for major and minor streets between the city and the state. This required plan element has been seen to have a special influence on preservation. Obviously, it can ensure that major streets will be run around, rather than through, important historic areas and landmarks. The flip side is that once required plan elements are officially adopted, they often take on a life of their own and their harmful effects can become extremely difficult from a political standpoint to change or amend. Several North Carolina cities designated as major thoroughfares neighborhood streets that were later to become the principal residential street running through historic districts created many years later. The thoroughfare plans were changed only with great difficulty.

Also in my state of North Carolina, cities are required to have an officially adopted plan before they may exercise regulatory controls over development outside the city limits (up to three miles, depending on the size of the town). These extraterritorial controls include zoning, subdivision regulations, building and housing codes, community appearance, historic district and landmark designation, and the acquisition of open space.

Having an official preservation plan as a comprehensive plan element makes it much more likely that the appropriate questions will be asked at the time development takes place beyond the city limits about archeological sites, the existence of important landmark buildings or historic sites, and other land-disturbing activities. Later is usually too late. Presently, the preservation regulations and enforcement programs of most cities focus on the old, historic inner city and tend to ignore its suburbs -- areas that will one day inevitably be regarded as historic or contain buildings thought to be worthy of preservation.

Occasionally a city will attempt to exercise its eminent domain power to acquire a parcel or parcels of land for some sort of urban renewal, community development, or similar project. The old Title I Urban Redevelopment projects from the 1950s, and successor programs administered by the US Department of Housing and Urban Development, required that, in order to obtain federal dollars for the project, there be state enabling legislation requiring an officially approved local comprehensive plan. Having a preservation element as part of a plan that identifies important inner city cultural resources can still be a powerful tool for preventing the acquisition or destruction of the wrong properties, notwithstanding that the old federally subsidized programs were (and sometimes still are) directly responsible for the loss of many historic buildings and areas.

As noted earlier, it is unlikely that specific enabling legislation to create an official preservation plan as part of the comprehensive plan is needed, at least in most states. General planning authority is probably sufficient. But having such a plan on the books provides special identity for resources often otherwise overlooked, gives politicians who want to be helpful something to point to, and tends to quiet down those who are opposed. Beyond this, a statement in the plan that in the event of conflict with other plan elements, the preservation plan will take precedence, require a special

amendment to the plan, or some other creatively obstructionist tactic -- an environmental impact statement, for example -- may be helpful.

Planning and the Courts

Though not often thought of as doing so, the preservation plan can provide important backup for landmark and historic district protection through uncompensated regulatory techniques, such as zoning. This is because the Equal Protection and Due Process guarantees contained in both federal and state constitutions mandate that all property owners be treated alike. But zoning, by its nature, requires that some property owners be treated differently than others. Both legislatures and the courts have recognized that this situation is potentially open to abuse, and, as safeguards, have required that zoning be "reasonable" in its application to individuals. The best possible way to convince a court that regulations are "reasonable" is to be able to show that preservation goals and objectives have been thoughtfully considered as part of the larger local comprehensive planning and zoning processes.

A Concluding Thought

As a practical matter, the "plans" or types of "planning" in all these food groups have their uses in specific situations. Strategic planning, small area plans, the many forms of environmental review with varying levels of "enforcement," planned unit development and site plan review all have potentially useful application in specific situations and by now are well entrenched in the American land management system. However, in the long term, the comprehensive plan approach -- the fifth described above -- holds by far the greatest potential for lasting results for both preservation in particular and growth management generally.

There is an interesting irony in all this. The number of historic district, preservation, and landmark commissions exercising regulatory authority has tended to double each decade since the first one was established in Charleston, South Carolina in 1931. Now, 70 years later, there are more than 2,500 such commissions throughout the

United States exercising one or another form of special regulatory authority over historic properties. That such regulations have been useful in protecting landmark buildings and neighborhoods is beyond question. But they have their procedural, substantive, and political limits, and in any case they don't come into play until the property owner needs a permit to do something. The point here is that regulations are the back end of the planning process. It is the front end that needs attention. Something more proactive than "Just Say No" is desperately needed.

There is an old saying that more is accomplished with honey than with sticks, and there is a clear case to be made that planning "honey" can do as much or more for preservation than all the regulations already on the books. But there are probably fewer than 200 local jurisdictions in the US that presently have officially adopted preservation plans as a standing, respected component of their official, local comprehensive plans. Clearly, while the regulatory sticks for preservation greatly outnumber the jars of preservation honey out there waiting to be used, they don't outweigh them. Those honeypots are potentially of greater importance than all the sticks available, and an important preservation opportunity still eludes us.

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