

## A STUDY ON NEW YORK CITY'S PRESERVATION SYSTEM

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### ABSTRACT

As the twenty-first century is closing in, we are urged to reform our planning system from development-oriented to preservation one. While a planning system in Japan was modeled after the Zoning Resolution in New York City, its preservation side has been ignored completely. Targeting a good balance of development and preservation, NYC has the City's Planning Commission and the Landmarks Preservation Commission. Focusing on the preservation, this paper will seek suggestions for improving our systems through analyzing NYC's. The characteristics of NYC's preservation organization can be summed up as follows: 1. The citizens made the Landmarks Law of 1965 passed and share a consensus which historic preservation is one of the purposes of police power. 2. LPC, which was composed of various specialists, is cooperative with others such as CPC, citizens, architects and NPO groups, and simultaneously independent from them. Formal and informal discussions among them have deepened understanding of preservation mutually. 3. LPC can designate individual landmarks and historic districts without agreement of owners, and regulate demolition, restoration and new construction in terms of design. 4. Reviewing all changes of not only landmarks but also non-traditional structures in historic districts, LPC has saved the special character of an area. As a result, from a citywide point of view, the diverse physical environment, which could not have been created only by planning methods, is achieved. Although there are differences between Asian cities and NYC, we can learn much from NYC's system as regards procedural and organizational merits.

## 1 INTRODUCTION

### 1.1 Background and Objectives of the Study

As the twenty-first century is closing in, we are urged to reform our planning system from development-oriented to preservation one.

While the land use law in Japan was modeled after the Zoning Resolution in New York City (NYC), the fact that NYC has a rigid preservation control has been ignored completely. Targeting a good balance of development and preservation, NYC has the City's Planning Commission (CPC) and the Landmarks Preservation Commission (LPC) which was established under the Landmarks Law of 1965 (the Law).

Focusing on efforts toward preservation that was made in NYC, this paper will seek suggestions for improving our systems.

### 1.2 Structure of the Study

The first chapter is an introduction with a brief explanation on a legal background as a basic knowledge. The second chapter describes the establishment of the preservation system in NYC through the movement for historic landmarks and livable circumstances. The Law and the LPC are also explained followed by Chapter Three which outlines the process of preservation by three stages, namely designation, regulation and enforcement. In Chapter Four, the relationship among the LPC, other city agencies, citizens including Community Boards and Non-Profit-Organizations will be clarified. Focusing on historic districts, Chapter Five will

begin with the definition and current conditions of historic districts. Following the comparison to other methods under the Zoning Resolution, the institution of a historic district will be evaluated. As a conclusion, the last chapter will show what we can learn from the NYC's experience in terms of historic districts as a preservation planning tool and the total preservation system by plural commitments.

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### 1.3 Historic Preservation as a Public Welfare

Before the case study on NYC, how historic preservation is considered legally in the United States will be summarized.

In the Penn Central Case of 1978, the Federal Supreme Court decided that the Landmarks Law of 1965 in NYC could be constitutional if it did not take all of his/her properties<sup>1</sup>. Historic preservation was approved as a public welfare<sup>2</sup>, which means a right purpose for using police power. Therefore municipalities should seek the historic preservation in their policies. This decision had a big influence on not only NYC but also all municipalities in the whole country.

Before the Penn case, any land use controls for preservation could not regulate severely because of being afraid of 'taking'. Therefore, designations without agreement of owners and relatively strong regulations were sometimes apt to be shunned.

The Penn Case is based on Euclid and Berman cases. In Euclid case of 1929, the Supreme Court upheld that the land use control on a district level, namely zoning, under the comprehensive plan is constitutional<sup>3</sup>. In Berman case of 1954, aesthetics alone was accepted as a regulatory justification for the first time. The Supreme Court found that this case might be 'some of the more conspicuous examples of the traditional applications of the police power to municipal affairs. Yet they merely illustrate the scope of the power and do not delimit it. It is well within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.'<sup>4</sup>

Why were these decisions for preservation able to be made? Because the citizens has supported historic preservation. This is the principle requirement to promote preservation planning.

## 2 ESTABLISHMENT OF PRESERVATION SYSTEM

### 2.1 Movement for Preservation

In NYC of the 1960's, two serious problems in relation to urban space were happening; one was the scrap and build type redevelopment, the other was demolition of famous historic fabrics.

The former was often seen in many cities of the USA. After the Federal government enacted the Housing Act of 1949 that advanced the Urban Renewal with the Federal subsidies, so many communities had been replaced by new housing projects. In NYC, some urban renewal projects that were planned in Greenwich Village and Brooklyn Heights met furious oppositions by the local residents. Both districts had much in common. For example, historic rowhouses were built in a line on a street; local residents were generally well being; both were facing redevelopment plans. These two neighborhood groups were the strongest supporters for providing for historic districts in the newly preservation law which was being drafted.

Simultaneously, the movement to save historic individual landmarks was coming to the peak when the Penn Central Station was demolished in 1963. Although so many New Yorkers, including architects, critics, celebrities were coming together, the CPC approved unanimously the redevelopment plan by the Penn Transportation Company who had the Station. Ironically, the demolition of the Penn Station made ordinary citizens into preservationists. They were sure that more historic structures would have been lost if a kind of a preservation ordinance had not been adopted. In addition, as a preservation commission was originally planned to establish within the CPC<sup>5</sup>, they asserted that an independent organization should deal with preservation. The draft of the Law was rewritten.

### 2.2 Landmarks Law of 1965 and Establishment of Landmarks Preservation Commission

When two aspects which were described above, namely the preservation of historic environment as living surroundings and the preservation of individual valuable architecture, were united, the Landmarks Law of 1965 was passed at the City Council.

The purpose of the Law is<sup>6</sup>:

- Protect, enhance, and perpetuate buildings that represent the city's cultural, social, economic, political, and architectural history.
- Safeguard the city's historic, aesthetic, and cultural heritage.

- Stabilize and improve property values.
- Promote civic pride in the beauty and accomplishments of the past.
- Protect and enhance the city's attractions to tourists and visitors, thereby supporting and stimulating business and industry.
- Strengthen the economy of the city.
- Promote the use of designated buildings for the education, pleasure, and welfare of the people of the city.

It is clear that the Law emphasizes the aspect of the economy by exploring historic structures fully.

Under the Law, the Landmarks Preservation Commission was established and empowered as an individual authority of designation, regulation and enforcement for preservation. Although the LPC is one of the smallest city agencies, it is the largest municipal preservation agency in the country<sup>7</sup>. The LPC consists of eleven Commissioners and a full time staff of professional architects, architectural historians, restoration specialists, urban planners, and archaeologists, as well as administrative and legal personnel<sup>8</sup>. Commissioners include at least three architects, one historian, one city planner or landscape architect, and one realtor. There must be at least one resident from each of the five boroughs. Commissioners are appointed by the Mayor with the advice and consent of the City Council for three-year terms. The Mayor appoints the Chair and the Vice Chair among those commissioners. With the exception of the Chair, Commissioners serve part time and receive no salary.

### 3 PROCESS OF PRESERVATION

#### 3.1 Designation

The Law provides for four types that are summarized as follows<sup>9</sup>:

- Individual (or exterior) landmark: a building, property, or object
- Historic district: an area consisting of structures that have a special character of historic or aesthetic interest and represent one or more periods or styles typical of one or more eras in the city's history
- Interior landmark: a space which is customarily accessible to by the public can be designated. Private homes or places used for religious worship cannot be designated
- Scenic landmark: a city-owned landscape feature or group of features

To be designated as individuals, objects are required to be thirty or more year old. Currently 962 individual landmarks, 72 historic districts, 98 interior landmarks and 9 scenic landmarks are designated (as of June 1999).

Requests from any individual or community group will be followed by surveys conducted by the LPC's staff. After preliminary review and evaluation of suggestions from the public and the LPC staff, whether the area is worth designating or not is further considered by the Designation Committee of the LPC<sup>10</sup>. The Designation Committee is made up of four Commissioners, including the Chair and senior staff members. The Committee formulates recommendations of the object for further study. Using these recommendations, the Chair, who has taken part in the discussions as a member of the Committee, directs the LPC staff to begin preliminary work on the object. The Research Department will prepare a draft report and make

additional presentations to both the Designation Committee and the full LPC.

When the designation hearing is held by the LPC's staff to present an overview of the object's importance, the Commissioners vote whether to calendar for a public hearing or not. Testimonies from property owners, local residents, elected officials, and the general public either supporting or opposing the designation are welcomed. The LPC must inform the CPC, all affected Community Boards, and the appropriate Borough President of the public hearing on the proposed designation. The City Council member whose district is affected may also participate in the process<sup>11</sup>.

After this hearing, LPC's staff researches and prepares a draft of a designation report documenting the architectural, historical, and cultural history of the building or the area. During this period, the Department of Buildings will not issue permits for buildings being considered for designation before consulting the LPC. The draft of a formal designation-report is then reviewed by the Commissioners. And a public meeting where the Commissioners vote is held. The approval of at least six Commissioners is required for designation. After this process, the full force of the Law become effective.

Following the formal designation by the LPC, individual landmarks and historic districts are reviewed by the CPC and the City Council. The LPC must notify both bodies within ten days of the designation. The CPC then has sixty days to submit a report to the City Council analyzing the relationship to the surrounding area's zoning and plans for improvements, development, or renewal. In a case of a historic district, the CPC should hold a public hearing. The City Council has 120 days from when they were first notified to affirm, modify, or disapprove the designation by a majority vote. The Council's vote is an end result unless vetoed by the Mayor whose action can subsequently be overridden by a two-thirds vote of the Council. The Council has rejected only a few designations by the LPC<sup>12</sup> since 1965.

It is often said that only the aspect of architectural values has been considered important. Recently some preservationists advocate respecting the social and cultural aspects more and more. For example, Chinatown and Little Italy are not designated as historic districts, because of their ethnicity. In addition, buildings from the recent past, after 1960s, are controversial whether they are an important architectural heritage or not. The architectural critic, Paul Goldberger discussed in 1995<sup>13</sup>:

- As the city evolves, so does the very concept of landmarking and the sense of what saving history actually means. --- The buildings that are now designated landmarks are largely, though not entirely, the solid, grand buildings of the haute bourgeoisie; they represent the architectural legacy of the people, largely European immigrants, who built New York in the 19<sup>th</sup> and early 20<sup>th</sup> centuries.
- But the New York taking shape now is a very different city, and it may well leave a different architectural legacy. The landmarks commission has begun in the last few years to pay more attention to architecture in poor and working-class neighborhoods---

What should be preserved, in other words, the whole history of the city, should be reconsidered.

### 3.2 Regulation

Any alteration, restoration, reconstruction, demolition or new construction planned for individual landmarks or buildings in historic districts must be approved by the LPC except for ordinary maintenance or repairs, such as replacing broken glass, repainting an exterior the same color, and removing graffiti.

The LPC issues three types of permits, 1) Certificate of No Effect (CNE), 2) Permit for Minor Work (PMW), 3) Certificate of Appropriateness (C of A). In relation to 1) and 2), the staff of the



LPC deals with them without many problems. Commissioners are discussing on the appropriateness of a new development at the public review to issue the C of A.

To help applicants understand its standards for performing work, the LPC has adopted rules and guidelines. Although most historic districts do not have a guidance that is tailored only for each district<sup>14</sup>, some guidelines such as "Rowhouse Manual" can be shared in many districts. The LPC also tries to make the regulation process easier for both sides by using many kinds of information sheets.

If fewer than six commissioners would be ready to make a determination or if an owner or a community group requests more time or additional information, a decision may be postponed until the following month's hearing<sup>15</sup>.

To avoid the constitutional issue, the Law has a hardship clause in Section 25-309 which ensures a property owner subject to real estate taxes to earn at least six percent of the valuation of the land and building plus two percent allowance for the depreciation of the building. If the application is denied, the owner can appeal to the Hardship Appeals Panel. If the hardship is recognized by commissioners, the LPC may attempt to find alternative relief to enable the owner to earn a reasonable return through tax benefits, structural alterations, a special permit, or the sale of the property. Depending on the LPC's plan, the applicant may accept the relief or the LPC may authorize the original proposal.

In the case of owners of tax-exempt properties, or non-profit, a different test for hardship is used. If they can prove that the building is no longer adequate or suitable for their charitable purpose, the LPC has to seek alternative relief, such as finding a buyer or purchasing by NYC. Among about 21,000 protected buildings, of which about 1,000 are individual landmarks and others are in historic districts, fewer than ten have been demolished because of hardship since 1965. Most developers complain that the figures taken in the clause is too old and too low.

One of the most difficult tasks of the LPC is to judge what is appropriate, especially in the case of contemporary designs in historic districts. In the 1970s, the LPC could not reach a unified conclusion in each case at the regulation stage. For example, the rowhouse on the West 18<sup>th</sup> Street in Greenwich Village Historic District, which was exploded, was discussed thoroughly on the proposed contemporary design in 1971. Newspapers raised the debate and the appropriate design became a social issue. In 1974, a notable architectural critic, Ada Louise Huxtable wrote in the New York Times<sup>16</sup>:

In one decade the cause of preservation has undergone a remarkable transformation from an odd and harmless hobby of little old ladies in floppy hats who liked old houses to an integral, administrative part of city government dealing with an essential part of the city's fabric. From a cultural nicety it has developed into an environmental necessity of important sociological impact - a remarkable consequence no one foresaw.

After more than thirty years, a contemporary design which fits the historic environment becomes more and more sophisticated.

### 3.3 Enforcement

Local residents, block associations, and preservation groups play a vital role in safeguarding designated buildings by reporting violations to the LPC's Violation officer<sup>17</sup>. The LPC will issue a Notice to Stop Work and a Notice of Violation to a building owner for work-in-progress that has been documented as being in violation of the Law. If illegal changes are documented after the completion, the LPC will issue a Notice of Violation. The developer or the owner should correct, remove or legalize the work. Failure to respond to a Notice of Violation can result in the delay of future permits from the LPC and the Department of Buildings as well as fines and judicial proceedings.

In January of 1998, an improvement of the Law was enacted. A proposal for improving of

enforcement is made. Before this change, the LPC could go to only civil court for violations. Currently, in addition to it, the LPC can go to administrative board, too. Furthermore, civil fines will be charged. A new status for a director of enforcement is created under the current LPC.

Although efforts toward better enforcement have been made, violations can not be stopped. Some developers dare to violate the Law on purpose for their benefit. The number of the LPC's staff is too small to observe all over the designated buildings and districts.

#### 4 - LPC'S PARTNERSHIP WITH OTHERS

##### 4.1 Governmental Organizations

The historic preservation intrinsically involves plural organizations (Figure1: Related Preservation Organizations in New York City).

The main organization is the LPC which has cooperated with other governmental organizations, such as the CPC, the Department of City Planning, the Department of Transportation, the Building Department and so on. Although the LPC can regulate individual landmarks and buildings in historic districts, its power is limited. What the LPC can commit to the elements that are controlled by the Zoning Resolution is just recommendations to the CPC that does not always observe them. The Board of Estimate had an opportunity to vote on each designation. When the Board of Estimate was declared unconstitutional by the Federal Supreme Court in 1989, the City Charter was amended to give the City Council the power to approve, modify or deny designations by the LPC. Generally speaking, governmental organizations are not so sympathetic to the LPC. A comprehensive vision should be created to unify them and to promote preservation.

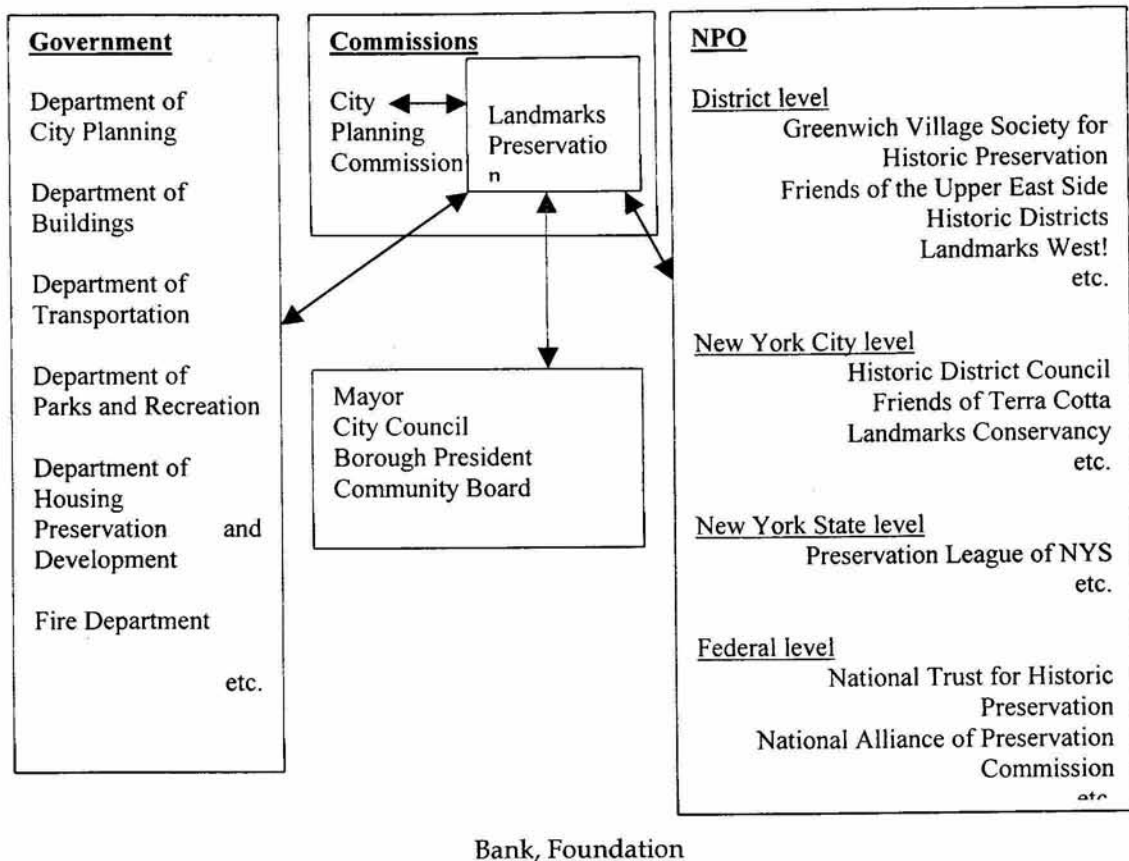


Fig: Related Preservation Organization in New York City

#### 4.2 Citizens and Community Boards

Citizens strongly have supported the preservation movement as an individual or as a member of a Community Board and Non-Profit-Organizations.

The citizen is playing the most important role in the preservation as a street-watcher who finds a transformation and feels a change in the environment. An ill alteration may not damage its circumstances if it is just one. But when similar alterations continue, the historic atmosphere is totally destroyed. For example, changes of the first floor at historic rowhouses into shops had often been done with too big glass show-windows and removal of classical decorative elements in the 1970s. Because the Law was established just in 1965, the LPC could not pay much attention to the renovation of rowhouses. It was the local residents of Greenwich Village who surveyed the damage on the streetscape and made a report. The LPC accepted this report and changed its policy to be more sensible to bad renovations of rowhouses. In addition, a multiple window was often replaced by one big glass in the 1970s. The LPC also could not regulate rigidly each architectural element in the early days. Although a window is just a detail, the change has damaged severely a special character of a historic district. With support of citizens, the LPC adopted 'the Window Guidelines' in 1990 into the Law. Local residents always keep their eyes on their neighborhoods and often lead the LPC to the better preservation.

A Community Board<sup>18</sup> is a formal organization to appeal the area's considerations. Although it is just an advisory organization to its borough president and the City Council, its decisions have strong influence. A Community Board has usually special committees on land use and historic preservation in addition to budget, education and so on. Preservation



committees have been always attending relating public reviews at the LPC for testaments. Although the goals of a Community Board and the LPC are the same, namely to practice appropriate preservation, their judgements on the appropriate design in each concrete case are often different from each other.

Prior to seeking an approval from the LPC, owners and architects often have to present their designs to local groups<sup>19</sup>. Frequently, a Community Board opposes a contemporary design that is relatively supported by the LPC. An architect insists that a layman should be trained<sup>20</sup>. It is clear that designs in historic districts have been improved through discussions between local residents or members of a Community Board, architects, developers and the LPC<sup>21</sup>. Although the LPC's decision should be based on the clear criteria and should not be influenced by others, the LPC can be conscious of what it might not notice by trying to understand what others consider.

#### 4.3 Non-Profit-Organizations

Non-Profit-Organizations can be divided into two kinds. One is a local NPO that is rooted to a specific historic district constituted by residents: the other is a city-wide NPO which is often composed by professionals.

As examples of the former, the Upper West Side Historic District has 'Landmark West!', 'Friends of the Upper East Side Historic Districts' for the Upper East Side Historic District, 'Jackson Heights Beautification Group' for Jackson Heights Historic District, 'the Greenwich Village Society for Historic Preservation' in Greenwich Village Historic District and so on. The Morningside Heights Historic District Committee aims to establish a new historic district in the neighborhood of Columbia University. They survey the area in terms of the history and architecture, make educational events and tours, and publish newsletters. Each NPO has a few professional staff and members who joins the NPO by paying about fifty dollars a year.

On the other hand, city-wide organizations, such as the Historic District Council and the Landmarks Conservancy, performs a major part in conservation technical assistance and fund raising. Their staff are professional conservators, architects, planners, lawyers, economists, carpenters, historians and so forth. Every local NPO and an owner of a historic building consult with them. They support and often lead the LPC. For example, a symposium on current issues in historic preservation is held every year by the Historic District Council.

## 5 HISTORIC DISTRICTS FOR PRESERVATION PLANNING

### 5.1 The Definition of Historic Districts; Special Character

The definition of historic districts is as follows<sup>22</sup>:

Any area which contains improvements which:

- a) Have a special character or special historical or aesthetic interest or value; and
- b) Represent one or more periods or styles of architecture typical of one or more eras in the history of the city; and
- c) Cause such area, by reason of such factors, to constitute a district section of the city

'A special character' is a keyword used in the definition of historic districts in the Law. Nevertheless the explanation on 'special' can not be seen in the Law. Although this ambiguity seems not to be suitable as a governmental control, the institution of historic districts has been successful. Because each historic district has its own special character that is totally different

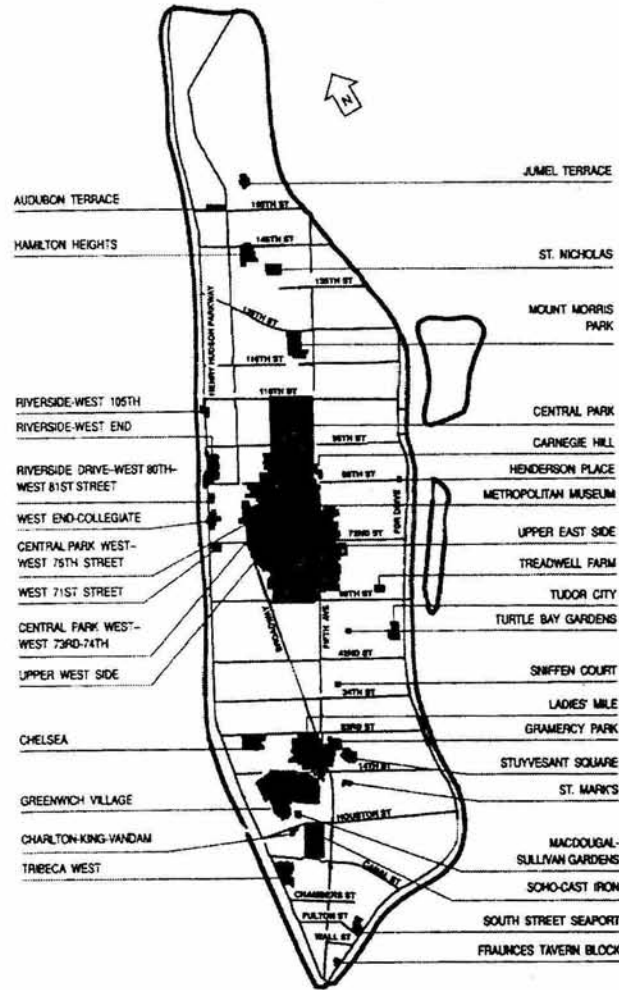
from each other, guidelines or rulebooks are useless. Through the public review held by the LPC at the regulation process, the LPC, local residents, architects and developers consider and discuss the special character of each district. As a result, the special character is being shared little by little. This process is so important that they can exchange their ideas on what the district is and will be.

## 5.2 Current Conditions of Historic Districts

After the Brooklyn Heights Historic District was designated in 1965 as the first one, seventy two historic districts have been gradually designated (as of May, 1998) (Map: Historic Districts in Manhattan).

Historic districts can be divided two kinds. One is rigidly bounded and relatively small with unified architectural and historical character: the other is relatively large with a variety of styles emphasizing the significance as a living environment.

The latter is more generous to accept the diversity which was highly evaluated by Jane Jacobs in her influential book, 'the Death and Life of Great American Cities' written in 1961, and has been diminished under the modern urban planning, namely the Zoning Resolution of 1961. When the Law was enacted in 1965, the purpose of historic districts was mainly to protect the area as a set of cultural assets. After more than thirty years have passed, with the success of some broader historic districts, such as Greenwich Village Historic District and Brooklyn Heights Historic District, the diversity itself became respected. The report, 'SHAPING THE FUTURE OF THE CITY' prepared by the CPC in 1993 declares that the diversity is significant from a planning point of view, too.



Map: Historic Districts in Manhattan

### 5.3 Comparison to Other Methods

NYC has other methods to preserve something at a district level. The Zoning Resolution of 1961 has been amended to adopt a Limited Height District, Special Zoning Districts, Contextual Zoning, and Loft Zoning because of the requirement for the preservation oriented planning<sup>23</sup>.

A Limited Height District was established in 1966 by the support of the local residents in Brooklyn Heights. The designation as a historic district could not relieve them from worrying about the future of the district because the LPC could not commit the elements that were controlled by the Zoning Resolution. They strongly asserted that the height of new developments should be harmonized to the existing historic environment and should be regulated legally by the Zoning. Under a Limited Height District that can be used only in historic districts, buildings are limited from fifty to hundred foot height to keep the line of rowhouses on the streets. Currently a part of Upper East Side Historic District and Gramercy Park Historic District are overlaid by a Limited Height District. The reason why a Limited Height District is not so popular is that the real estate side will oppose it. In addition, it is believed that a special character of a historic district can be preserved through each public review.

The Special Zoning Districts, which was established by the Urban Design Group in the Department of City Planning in 1967, was popular in the 1970s. It was introduced as a 'carrots and sticks' method for a specific district. Because the word, 'special' was not described clearly, the CPC has too much discretion in designating process of Special Districts. The most serious problem was that everything was left to the CPC's decision and others could not expect the consequence. The 1970s was the period when developers could negotiate with the CPC to make a project go through. Until the last Special District in 1990, about forty districts have been established. No district will be in the future. The purposes of a Special District can be divided into five; 1) preservation of the physical environment or land use, 2) a balanced development in mixed use areas, 3) a successful big project, 4) natural conservation, 5) low-income housings. In relation to 1), although the physical urban form could be preserved by the regulation of new developments in terms of floor area ratio and height, a special character which was contributed to by architectural details has been lost. In addition, it is very difficult for a Special District to promote a specific land use which are weakening. The broader policy should be taken. The similar thing can be said to 2) and 5) which are too complicated for one method to deal with. No low-income housing project has been built in exchange for a bonus provided by a Special District Zoning. Regards to 3) and 4), they seem to be relatively successful, because the purposes are clearly defined.

Learning from the failure of a Special District Zoning, an 'as of right' method was sought. The generic category of Contextual Zoning was established in 1984, 1987 and 1989. Basically it moderates the lot coverage and regulates the height lower to harmonize the existing historic environment. As sixteen kinds for housing and twenty for commercial have been created, the Zoning Resolution is so complicated that even officials in the planning section can not understand it fully<sup>24</sup>. Now, in Manhattan, building types of rowhouses and apartment houses in the Upper East and West Sides are preserved under the Contextual Zoning.

When the Loft Zoning was created in 1970, it was limited to a specific district. It became a generic zoning in 1981. A loft is a building type that was very popular in the 1930s when cast-iron became usable for architecture. Because cast-iron made columns slimmer than those of before, the inner space became bigger and higher which was useful as a shop with a big show-window at the first floor, bright offices with big windows at middle floors and warehouses with a mechanical elevator at top floors. In the 1960s, the industrial structure in NYC was changing dramatically and many lofts became vacant. No developers could redevelop them because of being short of funds. Poor artists began to exploit a loft as a house with an atelier. Although it was illegal to live in a loft under the Zoning Resolution of 1961 which tried to separate different land use, the CPC chose to make it legal, not to deal it violation. The CPC were trying to use the existing fabrics as much as possible because of the serious economic conditions of NYC. Although the Loft Zoning became a generic zoning, special permits are sometimes required because the areas that are abundant with lofts are apt to be unsuitable for living circumstances. Living in a loft became a new lifestyle that is popular especially among young couples. The reason of the successful Loft zoning is that it is limited to just one building type.

The Zoning Resolution became too complicated during the process of amendments. Currently the CPC announced that a new zoning would be created. How should the new one be? While the LPC tries to preserve a special character that is constituted by historic architectural details, the CPC has often failed in preservation because the CPC cannot review designs and because the preservation is not a pure goal but a mixed one with development. An urban planner insists as follows<sup>25</sup>:

Historic districts are better understood by and more predictable to residents than zoning. --- If you own a vacant lot on a block of row houses in a historic district and want to build something on it, you must appear before the Landmarks Preservation Commission. The commission has the ability to recommend waiving all sorts of zoning requirements, including use, bulk, and density provisions, but residents know that the commission will almost certainly

require you to replace the block's missing tooth with another row house or, at least, a look-alike row house.--- in historic districts, such protection takes place through discretionary review, as opposed to an as-of-right formula. ---developers also know what to expect when they go before the Landmarks Preservation Commission; they know what the commission's concerns will be. So the great irony is that historic districts function as a very predictable form of zoning, albeit involving discretionary review.

I propose that the new zoning resolution should not include too many preservation-oriented tools, and that the CPC should respect the recommendations of the LPC with more attention.

#### 5.4 Issues and Evaluation of Historic Districts

As we saw, the ambiguity of 'a special character' has merits. At the same time, a set of clear criteria for historic districts is necessary not to be much influenced by citizens. Because the public participation is put in the process of preservation, the cooperative relationship between residents and the LPC has been established. While it is easy for the LPC to designate, regulate and enforce the preservation in a historic district with supporters, it is very difficult with no backing by the local residents. For example, most tenants of commercial spaces in the South Street Seaport Historic District, which was one of the typical restructuring developments in the 1970s and 1980s in US, have left. Customers become gradually weary of the historic resources as a commercial environment. Large-scale tourist attractions are not suitable for neighborhoods, even if they preserve some historic structure, because they disrupt the life-cycle of a neighborhood and can only lead to lack of authenticity of place and eventually displacement. The commercial development in South Street Seaport displaced the local artist population, the retail that served the fishing industry and the sense of place that many New Yorkers cherished<sup>26</sup>. It also eventually became a financial loss for both the tourist-related retail and the developer. South Street Seaport was never given adequate time to allow the culture to attract tourists.

Another issue is that the LPC must evaluate the values that are not supported by citizens. The designation of SoHo cast-iron Historic District whose main building type is a loft is a good instance. Although the architectural value of lofts was not appreciated by the ordinary people, the LPC designated it in 1972. After the designation, the loft became acknowledged as one of the typical important building types in the history of NYC's urbanization and architecture by the citizen. This achievement should be applauded.

NYC is constituted by many famous neighborhoods, such as Brooklyn Heights, Chelsea, Greenwich Village, SoHo, South Street Seaport, Tribeca, Upper East Side, Upper West Side, and so on. As a matter of fact, all these neighborhoods are designated as historic districts. Various historic districts provide the diversity of the City as a whole. The institution of historic districts has contributed to the attraction of NYC.

## 6 CONCLUSION: WHAT WE CAN LEARN FROM THE NYC'S EXPERIENCE

### 6.1 Evaluation of the New York City's Preservation System

First, the LPC should be evaluated highly because of its appropriate efforts for designation and regulation. Second, that the LPC and CPC are coexisted and that the LPC is independent from the CPC should be evaluated, too. If only one organization is dealing with land use and the historic preservation, the balance between them will be fragile among commissioners, some of whom may have inclinations for development. Because there are two commissions and one of them is assigned purely to evaluate the value of old fabrics historically and architecturally, the decision of the LPC is very clear. Whether a building should be preserved or not is decided by the pure academic criteria, not by the political and economic judgement. Therefore, citizens and the City Council always follow the decision of the LPC.



Simultaneously, a vision is necessary. The CPC has to present a vision of the balance between preservation and development for the City in the future as a basis for discussion. Citizens and plural organizations will join the argument.

## 6.2 Plural Commitments

It is obvious that physical elements that constitute the environment of NYC are totally different from those of Tokyo or other Asian cities. Even though the substantive judgement of the LPC, for example, how to deal with details such as windows and doors, teaches us how far the regulation can be, and how deep the architectural detail effects the original fabric, the procedural process will be more informative. The procedural process means that 1) the public reviews are secured in the designation and regulation processes, 2) the NYC's preservation system includes not only the LPC but also other organizations, such as the CPC, many Non-Profit-Organizations and local residents. As a result the NYC's preservation system is working well.

In the early days, the design review by the LPC did not work well. Reviews by the commissioners of the LPC were sometimes not open to the public just for commissioners. They are changed to be open to the public now. Any official public reviews can be participated and testified by any persons only if they take appropriate procedures. Providing responsibilities for citizens, this process makes the quality of public participation better. As a result, the quality of the LPC as an authority of preservation also becomes sophisticated more and more.

In NYC, district level planning methods, like historic districts, became popular. For example, Business Improvement Districts and Empowerment Zones are said to be successful. The similar trend is happening or will be traced in Asian cities. Naturally, the more detail information on each district will be required. As a matter of course, only local groups such as Community Boards and NPO groups can keep it as a daily street-watcher. It is necessary to cultivate those groups by providing formal opportunities to take part in the preservation planning process.

The key to success in NYC is commitments to preservation by plural individuals, groups and organizations. In other words, the preservation movement can involve anybody despite he or she is pro or con, because it deals with a living environment as a whole. The diversity that is indispensable to a livable city in the twenty-first century will not be achieved without plural commitments.

## 6.3 Historic Districts as a Preservation Planning Tool

As I have described, the institution of a historic district has accepted generously diverse interpretations on a special character. It is a tool not to make the physical environment freeze in the past but to create diverse circumstances with respect to the existing environment through reviewing each project in terms of design. Therefore, valuable surroundings are preserved as a living environment without too radical redevelopment plans. Because the institution of a historic district leads a city to an assemblage of livable districts with accepting appropriate transformations, it is suitable for Asian cities.

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1 Penn Central Transportation Co. v. City of New York. (438 U.S. 104, 1978)

2 Other justifications for the police power are safety, sanitation and security.

3 Euclid v. Ambler realty Co. (272 U.S. 365, 1929)

4 Berman v. Parker. (348 U.S. 26, 1954) p.31

5 Gilmartin, Gregory F. (1995) SHAPING THE CITY; New York and the Municipal Art Society. New York:

Clarkson.

- 6 Local Laws of the City of New York, Landmarks Law, Administrative Code Title 25, Chapter 3. 25-301
- 7 Friends of the Upper East Side Historic Districts. (1994) PRESERVATION MANUAL; A Guide to Working on New York City Landmarks. p.2
- 8 The number of the staff may be from about fifty to eighty depending on the city budget.
- 9 Local Laws of the City of New York, Landmarks Law, Administrative Code Title 25, Chapter 3. 25-302
- 10 Historic District Council. (1993) Creating an Historic District; A Guide for Neighborhoods. New York. p.13
- 11 Historic District Council. (1993) pp.15-41 In 1993, the Survey Department which made a preliminary report, was abolished and reprogrammed in the agency.
- 12 The designation of the Dvorak House as an individual landmark was rejected by the Council. The site was planned to be a hospital for the AIDS which was considered to be emergency need. The Council also modified the Tribeca West Historic District by leaving out several buildings to edge.
- 13 Goldberger, Paul. (1995.4.9) 'New York, Lost and Found', The New York Times, Sec.4, p3:1.
- 14 Examples of rules and guidelines applicable to specific historic districts are 'Madison Avenue Shopfront Guidelines' (a rule) in 1981, a rule for Riverdale Historic District, a rule for shopfronts in Jackson Heights Historic District in 1997, and guidelines for Tribeca West Historic District.
- 15 Friends of the Upper East Side Historic Districts. (1994) p.7
- 16 Huxtable, Ada Louise. (1974.2.3) 'From Sentiment to Social Force', The New York Times. II.26.
- 17 Silberman, Mark. (1997 Fall/Winter) 'Enforcement of Landmarks Law to be Enhanced,' in a newsletter from Friends of the Upper East Side Historic Districts. Volume 9, No.2.
- 18 NYC is divided into 59 districts which has each Community Board. Board members are not more than 50 and are appointed by the Borough President. The half of the members should be selected by the City Council member who is representative of the district.
- 19 In a case of 'Dublin House' on Hudson Street at the corner of Charles Street in Greenwich Village Historic District, public reviews were held first at the Landmarks Committee of Community Board 2, Nov.18, and full Board Meeting, Community Board 2, Nov. 21 and then the LPC's formal public review was held on Nov.26 in the late 1980s.
- 20 Based on an interview with the New York Architect, Phillip Smith. (1998.6.2)
- 21 Goldberger, Paul. (1984.9.20) "Debating Design in Historic Districts," The New York Times. C28.
- 22 Local Laws of the City of New York, Landmarks Law, Administrative Code Title 25, Chapter 3. 25-302, h
- 23 New York City's official home pages provide information, at <http://www.ci.nyc.ny.us/html/dcp/home.html>.
- 24 Todd. W. Bressi, ed. (1993) 'Commentary; The Historical Framework', PLANNING AND ZONING NEW YORK CITY; Yesterday, Today and Tomorrow. New Brunswick. p.115
- 25 Todd. W. Bressi. Ed. (1993) 'Commentary; Future Scenarios', p.233
- 26 Kersavage, Lisa Ann. (1998) THE IMPACT OF HERIAGE TOURISM ON THREE NEW YORK CITY NEIGHBORHOODS. p.72 Master Thesis for Columbia University, Graduate School of Architecture, Planning

and Preservation.