

JOINT PUBLIC/PRIVATE DEVELOPMENT:
THE CASE OF CHARLESTON CENTER, CHARLESTON, SOUTH CAROLINA

by

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B.A., The Ohio State University
(1978)

SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE
DEGREE OF

MASTER OF CITY PLANNING

at the

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

June 1980

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ABSTRACT

With increasing frequency, and from a growing number of quarters, it is being argued that cooperative relationships between government and private enterprise will shape the destiny of America's cities. This thesis is concerned with one manifestation of this new emphasis: joint public/private development projects. These are instances in which local governments and private developers pool their resources for the purpose of planning, financing, building, and marketing development projects. The analysis is structured around case studies of two such projects--Charleston Center in Charleston, South Carolina, and Copley Place in Boston.

The aim of the thesis is to explore the following hypothesis: Government is becoming a coequal partner with private developers in a growing number of urban development projects, yet there exist today many formidable obstacles to successfully completing such projects. Traditional planning processes are not well suited to these new realities, so many proposed joint development projects will never be built. Thus, to enhance the prospects for these projects, planning processes that are more attuned to the current environment for development will have to be designed and used.

The thesis comprises five chapters. In the first chapter, joint public/private development is defined and the argument is made that in recent years a collection of forces has increased the amount of interest in this kind of development. It is also argued that joint development is consistent with an enduring tradition of privatism in American cities. The next chapter sketches the context for the Charleston Center case. Charleston's history, its politics and government, its demographic and economic characteristics, and its historic preservation legacy are discussed. The case itself is presented in the third chapter. The story begins with a description of the planning studies that led to the Charleston Center proposal, and ends inconclusively in a legal stalemate. In the fourth chapter, the Charleston Center case is analyzed. Seven specific reasons why the case turned out as it did are set forth and explained. The final chapter makes the point that, as the Charleston Center case illustrates, many obstacles confront those who attempt to build complex, large-scale development projects today. A case study of Copley Place, a more successful joint development project, is presented, and lessons are drawn from it.

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ACKNOWLEDGMENTS

Like all such works, this thesis bears the name of one person but is actually a collaborative effort. My most important intellectual debt is owed to the members of my thesis committee: Gary Hack, Phil Herr, and Alan Altshuler. In some instances, they sent me down new paths of inquiry; in others they steered me away from disaster. At all times, though, they gave me support and wise counsel.

Many friends helped me with this effort, and I am grateful to all of them. A few, however, deserve special thanks. Julie Wondolleck and Fred Merrill served as unofficial readers and offered many useful suggestions. Steve Cassella was a source of inspiration: Although he started writing after I did, he was determined to (and eventually did) finish his thesis on time. All three provided laughter and good times in abundance.

As important as the contributions of my teachers and friends were, without my mother and Sherry this thesis would not have been written. My mother is exceptionally supportive and has always been available when I have needed her. Sherry helped me in innumerable ways, some of which I cannot express. Suffice to say that she was beside me every step of the way. They both have my special gratitude and my love.

CHAPTER ONE
INTRODUCTION

With increasing frequency, and from a growing number of quarters, the theme is being echoed: cooperative relationships between government and private enterprise will shape the destiny of our cities. From a mayor: "There's no question that the only way the cities will be saved is by a marriage of the public and private sectors."¹ From an academician: "It becomes increasingly clear that the salvation of American, and even world, environments will require more effective integration of efforts by public and private enterprise, whose boundaries thereby become less clearly marked."² From a businessman: "The public/private partnership is the essential ingredient for urban vitality."³ And from the Comptroller of the Currency:

The fact is, after 20 years of massive federal investment in our cities. . .we have failed. . .This is a bleak picture. But that is not to suggest we throw up our hands in despair or bury our heads in the sand and blindly persist in our old ways, hoping for the best. On the contrary, we should open our eyes, face up to the new environment, and adapt to it. . .We should walk into the desert in front of us and make it bloom. . .How do we accomplish this? We must use our limited public sector dollars to attract investment from the much more massive resources of the private sector."⁴

This thesis is concerned with one manifestation of this new emphasis: joint public/private development projects. As defined here, these are instances in which local governments and private developers pool their resources and expertise for the purpose of planning, financing, building, and marketing development projects. In essence, then, these are business deals in which tradeoffs are made, and risks, benefits, and profits are shared. A growing list of projects

meet this definition; two of the best known are the Hartford Civic Center and the Inner Harbor I project in Baltimore.

There are significant differences between joint development projects⁵ and projects associated with urban renewal and other programs in which incentives are offered to private investors. In urban renewal, local governments (with the aid of federal funds) planned projects, assembled and cleared land, provided infrastructure, and sold the land at a write-down to private developers. From this point on, the projects were largely in the hands of developers, who also reaped any resultant profits. In addition to urban renewal, a variety of other devices, including tax abatements, loan guarantees, and grants of land, have been used to entice private developers to serve public objectives. One important distinction between these efforts and joint development is that in these programs the public sector is not involved throughout the development process, as it is in joint development. A second distinction is that in these programs the public sector does not ally itself with a specific developer at the beginning of the development process, as it does in joint development. Finally, in joint development the public sector expects a greater return for its investment than it does in other publicly-aided development programs. While this conception of the public role is more an evolutionary outgrowth of previous cooperative efforts involving government and private developers than a sharp break with such efforts, the past and present can be clearly differentiated.

Origins of Joint Public/Private Development

In many respects, the interest in joint public/private development is consistent with an enduring tradition of privatism in American cities-- a belief that private interests serve, or can be led to serve, the public welfare. From the earliest days of the nation, competing successfully for new development has often been considered essential to the survival of towns and cities. For example, in Main Street on the Middle Border, Lewis Atherton tells of turn-of-the-century competition among Missouri towns for a new shoe plant. Local boosters felt that "future returns would justify any current sacrifice. Such a plant would boom the price of property; vacant houses would be filled; and all would find employment at good wages."⁶ The winning town offered a cash bonus of \$60,000, and also agreed to furnish free a factory site, water and sewage disposal.⁷

The most widely known example of cooperation between the public and private sectors in urban development is urban renewal. This program was established by the Housing Act of 1949 in response to three perceived problems: the shortage of housing; the presence of slums; and the slumping economy.⁸ These problems were to be combatted through slum clearance and stimulation of the housing market. The overwhelming emphasis of the Act was on private enterprise, and its implementation was to be largely a local government responsibility.

During the 1950's and the early 1960's, the Housing Act underwent a series of amendments. In 1954, the emphasis on slum clearance and redevelopment was expanded to include the rehabilitation and conservation

of deteriorating areas. In 1956, relocation payments were authorized to help displaced families and businesses meet the costs of moving. Finally, the percentage of the federal grant funds that could be used for projects that were not predominantly residential was increased from 10 to 20 percent in 1959, and to 30 percent in 1961, as the program's emphasis shifted from housing to revitalizing the economic base of cities. During these years, billions of public dollars were spent and over 1500 projects were initiated.

By the late 1960's and early 1970's, though, the program was being assailed from a number of directions. Neighborhood groups became increasingly vociferous in their opposition to urban renewal and highway construction. They were joined by environmentalists, who objected to what they felt were the intolerable costs of such programs. This coalition eventually became so powerful that in many areas of the country it became impossible to proceed with large-scale development projects. Owing to these and other forces, urban renewal fell into disfavor, and in 1974 it was consolidated with six other programs into the Community Development Block Grant (CDBG) program.

In recent years, at least five forces have acted to alter the relationship between the public and private sectors in urban development. These are: (1) the "discovery" of new kinds of development opportunities; (2) the emergency of new federal incentives; (3) the worsening fiscal condition of governments; (4) the improved investment climate in cities; and (5) the shift toward more active involvement of local and state governments in economic development activities. Each of these is briefly discussed below.

New Development Opportunities. Development sites that were previously overlooked are being used more often. For instance, the air space over highways and transit stations, which in the past was seen as just that--air space--is now viewed as a development opportunity in space-starved cities. The Copley Place project in Boston, in which hotels, retail stores, offices, and housing are to be constructed over the Massachusetts Turnpike, is an example of this trend. A consequence of these projects is that public and private bodies have of necessity gained experience in working with each other.

New Federal Incentives. Federal programs have been altered to permit--or even encourage--more cooperation between the public and private sectors. For instance, the range of permissible expenditures under the CDBG program was expanded in 1977 to allow the use of funds for the acquisition or construction of commercial or industrial buildings or structures.⁹ In that same year, the Urban Development Action Grant (UDAG) program was established. UDAGs are intended to be discretionary, one-time grants for projects promising rapid results; they are to "take advantage of unique opportunities to attract private investment."¹⁰ In fact, the federal government likes to see at least a four-to-one "leveraging" of private investment to public dollar input.¹¹ Thus, to capture these grants, cities must interact and coordinate with private developers.

Fiscal Austerity. Growing dissatisfaction with tax burdens has led or, in some instances, forced governments to tighten their belts. As a result, little additional public money will be available in the foreseeable future for new go-it-alone physical and economic development programs. The response of many observers has been to conclude that the private

sector will have to lead the way toward accomplishing development goals.

As a federal official recently wrote.

We must structure incentives that will channel private capital into cities in sufficient quantities and with minimal federal expenditures. . . We have to comb through our programs, systematically spot the places where public money is doing something that private money could do, and then devise a means of drawing the private money into the job.¹²

Improved Investment Climate. It was not long ago that doomsayers were delivering eulogies for cities and the "urban crisis" was a much-discussed topic. Masses of middle- and upper-income persons had fled to the suburbs; companies had joined them; and new development projects in the city were rare. But in more and more cities this tide is shifting. The migration of affluent young persons has reached such proportions that "gentrification" is now seen as a problem. Companies, too, are returning. In New York, for instance, more than a dozen large corporations, including Avis, United Brands, and Coca-Cola, moved back into the city between 1975 and 1979.¹³ And cities as varied as Los Angeles, Houston and Minneapolis are in the midst of unprecedented construction booms. This is not to say that all of the problems that once beset central cities have been solved; but only that many cities are undergoing a revival of sorts, and that the investment climate in many places has improved markedly.

New Economic Development Programs. Local and state governments are becoming more actively involved in promoting and enabling economic development. They are experimenting with new organizational vehicles, such as community development corporations and economic development corporations; new financing techniques, such as tax increment financing

and industrial development revenue bonds; and new funding sources, such as Small Business Administration loans and UDAGs. Although many of these tools are controversial, and others have only been tested in the short run, the movement is clearly toward a more aggressive, entrepreneurial role for local governments.

Individually, each of these trends encourages or facilitates cooperation between the public and private sectors. Together, they constitute a powerful force in this direction.

Privatism and Urban Development

The tradition of privatism in American cities stresses the legitimacy of, and dependence upon, private initiative in the resolution of urban problems. In an earlier period of American history the private sector was actively engaged in the provision of basic municipal services: police and fire protection, water supply, sewage disposal, and public transportation. Even education and welfare were largely private responsibilities. Today, of course, the provision of these services has become almost exclusively a function of government. Nevertheless, the ethos of privatism continues to shape public responses to community problems.

Commitments to privatism are articulated not only by businessmen, but often by public officials, labor leaders, and community activists; they are subscribed to by a large portion of the general public as well. To cite an example, A.J. Cervantes, the former mayor of St. Louis, argued that:

It is primarily up to private enterprise, and not to government, to upgrade the disadvantaged, to provide training for the unemployed, to break down the complexities of job components, to employ the willing, to make them able, to push for social betterment, to dissolve the ghettos, to break through the vicious cycle of welfarism, to integrate the poor into an affluent economy, and to rebuild the cities.¹⁴

And Robert W. MacGregor, President of Chicago United, a group of business leaders in that city, recently wrote:

Urban strategists should concern themselves with the decline of privatism, or the failure of the private sector to do more. . . Some leading urbanologists believe that the cities are strangled with insolvable problems today, and that the cities of America will die. If privatism is not encouraged, the prophets of doom could be accurate.¹⁵

Charles Lindblom and others argue that private enterprise occupies a unique position in American public policy because of a mutually acknowledged interdependence between government and business.¹⁶ Cast in urban terms, their argument would be as follows: Business provides a city with taxes and jobs for residents, and the city provides business with markets and employees. Thus if one suffers, so must the other. If a business does poorly or goes bankrupt, the city loses part of its tax base and a number of jobs. If a city and its residents are in economic straits, the market for goods produced by business falters, and the labor supply deteriorates.

Others explain the bond between government and business in the resolution of urban problems in less abstract terms. They maintain that large amounts of resources are necessary to address such problems, and that only the private sector holds these resources on the requisite scale. Thus, a HUD official remarked: "The largest assets of the modern urban system are in private hands. To be effective, government programs. . . must leverage these funds."¹⁷

In either case, the results are the same: government provides incentives to, accomodates the demands of, and tries to forge alliances with private enterprise. In an important sense, then, public/private development projects are simply a new twist to one of the pervasive themes of American government.

Setting the Stage

This thesis looks at how the collaborative process works in joint public/private development projects. Although the existing literature on this kind of development is voluminous, in general it does not reveal much about why some efforts are more successful than others. Descriptions of projects and chronologies of events abound, but perceptive analyses of processes are rare. Thus, the whole of experience with joint development somehow appears less than the sum of its parts. Indeed, the whole is hard to sum at all, because the parts are so varied.

The analysis is structured around a case study of Charleston Center, a proposed joint development project in Charleston, South Carolina. The case study approach was chosen because it allows information and "solutions" to be presented against a realistic backdrop of political history, conflicting demands and competing interests. When done well, a case study captures the unique aspects of events or processes, much as the clinical approach in psychology is able to present the unique situation and personal background involved in analyzing and individual's behavior.

The thesis comprises five chapters. In this chapter, joint public/private development was defined and the argument was made that in recent

years a collection of forces has increased the amount of interest in this kind of development. It was also argued that joint development is consistent with an enduring tradition of privatism in American cities. The next chapter sketches the context for the Charleston Center case. Charleston's history, its politics and government, its demographic and economic characteristics, and its historic preservation legacy are discussed. The case itself is presented in the third chapter. The story begins with a description of the planning studies that led to the Charleston Center proposal, and ends inconclusively in a legal stalemate. In the fourth chapter, the case is analyzed. Seven specific reasons why the case turned out as it did are set forth and explained. The final chapter makes the point that, as the Charleston Center case illustrates, many obstacles confront those who attempt to build complex, large-scale development projects today. An example of a successful joint development project is presented, and lessons are drawn from it.

The aim of this thesis is to explore in a reasonably systematic way the following hypothesis: Government is becoming a coequal partner with private developers in a growing number of urban development projects, yet there exist today many formidable obstacles to successfully completing such projects. Traditional planning processes are not well suited to these new realities, so many proposed joint development projects will never be built. Thus to enhance the prospects for these projects, planning processes that are more attuned to the current environment for development will have to be designed and used.

There was a second--and less high-minded--reason for undertaking this study. It is perhaps best captured in a statement made by James Q.

Wilson a few years ago: "Understanding politics, a very difficult subject to comprehend, is intrinsically satisfying; and it needs no other justification than that."¹⁸

NOTES - CHAPTER ONE

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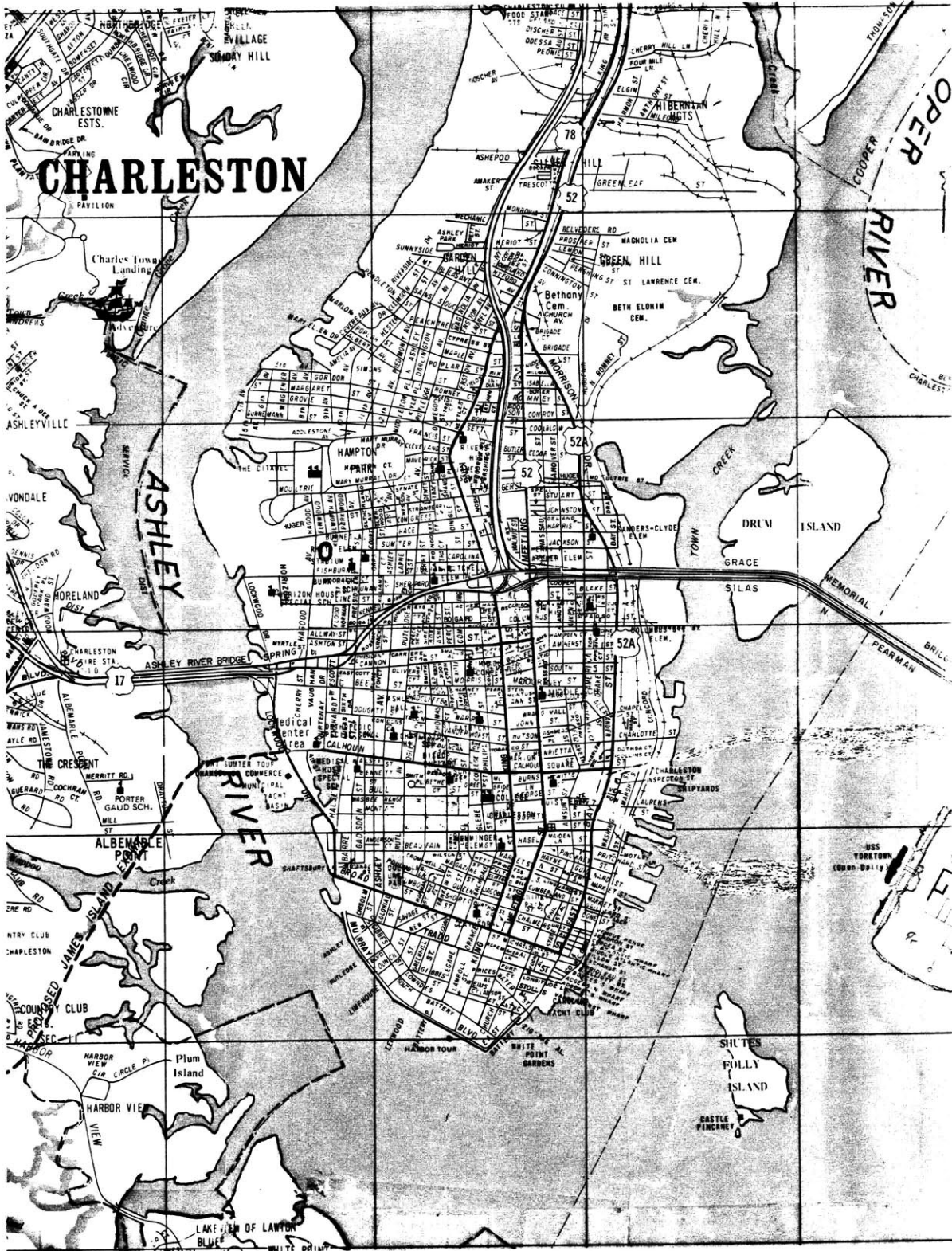
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CHAPTER TWO
CHARLESTON CENTER: THE CONTEXT

One who visits and studies Charleston, South Carolina, cannot help but be struck by the marked contrasts of the city. There is the Charleston everyone prizes: the historic lower peninsula that has been called "the richest lode of urban antiquities in America."¹ Here closely-packed, carefully restored houses grace narrow, tree-lined streets. Many of the residents of this area live much as their ancestors did generations ago. For instance, it is not uncommon for them to close their Broad Street shops and offices at two o'clock and walk home to dinner. And traditions such as exclusive social clubs, Wednesday afternoon dancing lessons for children and debutante parties still linger. It was to this city that William Allen White was referring when he called Charleston "the most civilized town in the world."²

Yet there are other sides of Charleston that are less talked about, but just as visible. The city has a central business district that is in physical and economic decline. It is sprinkled with pockets of poverty, where housing is deteriorated and unemployment rates range as high as 35 percent.³ And the rate of violent crime is among the highest in the country. As Mayor Joseph P. Riley has said, Charleston is, in many respects, "a microcosm of a large eastern city."⁴

Understanding the context of the Charleston Center case requires an understanding of these realities. It is also necessary to know something about the city's history, its politics and government, its demographic and economic characteristics, and its historic preservation legacy. These topics are briefly discussed below.



History

Charleston's origins can be traced back to the mid-1600's when King Charles II rewarded several of his supporters by making them Lords Proprietors of Carolina. In 1670, the Lords Proprietors and other colonizers landed in Carolina and founded a settlement on the west bank of the Ashley River. The population of Charles Town grew quickly. By 1700 it was about 2,700; by 1730 it was about 4,000; and by 1770 it was about 15,000. At the outbreak of the Revolutionary War, Charles Town was the fourth largest city in the American colonies.

The economy of the city also burgeoned. Within a few years of its founding, Charles Town was one of the busiest seaports on the Atlantic coast, mostly on the strength of its raw material exports. Fortunes were amassed by the merchants and planters involved in this trade, allowing the merchants to build large, well-appointed houses in the city and the planters to build lavish estates, complete with gardens laid out by the best landscape artists of the day. Many of the planters also commissioned townhouses, often of their own design. The city's wealth, its heterogenous population and its "style" gave it a cosmopolitan air that earned it the nickname "Little London."

Unlike many other southern cities, Charleston was not physically devastated by the Civil War. But the economic disruption and depression that followed the war were so extreme that the city never fully recovered. Paradoxically, it was these years of impoverishment that made Charleston what it is today: a coherent, almost totally preserved city, unlike any other in the nation. It is often said that at the war's end the city

was "too poor to paint and too proud to whitewash." It lacked the sort of industry that has to destroy in order to create, and its householders lacked the money to modernize. As DuBose Heyward described Charleston in Porgy, it was "an ancient, beautiful city that time had forgotten before it destroyed."⁵

The city did not receive any real economic stimuli until after World War II when Mendel Rivers, a South Carolina Democrat, became the head of the House Armed Services Committee. Soon the Pentagon was funneling vast sums of money into the area to build or expand a variety of military bases. These developments helped attract new industries, ranging from chemical processors to manufacturers of diesel engines. Charleston's economy was given another major boost when its port facilities were modernized to accommodate container technology. Owing to these and other developments, the city is, in some respects, enjoying a second lease on life. Its suburbs are rapidly expanding; tourism is booming; it has new cultural attractions; and preservation activities are stronger than ever. Yet this prosperity has not been a panacea, for some segments of the population are no better off than before, and growth has been accompanied by problems of its own.

Politics and Government

Until recently, Charleston was noted for its political conservatism, and decisions were quietly made by a handful of people. But two developments in the last five years have changed this tradition. The first was the election of Joseph P. Riley, Jr., as mayor; the second has been the increased participation of blacks in public decision-making. Riley, a

native-son Democrat, was elected in 1975 after his predecessor, who had been in office 16 years, resigned to accept a federal post. He was re-elected in 1979 after running unopposed. As mayor, he has been an activist and, at least in Charleston terms, a liberal. (Opponents derisively call him "LBJ"--"Little Black Joe"--for his courtship of black voters.) He has been described as "a very ambitious political mover with great savvy,"⁶ and there is talk of his running for governor.

The changes in the city council have been just as marked. Early in 1975, because of a federal court order, the council was reduced from 16 to 12 members. The court also mandated that council members be elected by district rather than at-large. As a consequence, six blacks were elected to the council in the election later that year, making it the first time since Reconstruction that half the members of Charleston's city council were black. Predictably, this has led to demands for greater attention to the problems of blacks, who constitute about half the population.

These changes in the composition of city government have had far-reaching consequences. Among the most significant is that in the last five years Charleston has changed from a city that refused to accept federal money to one that is heavily dependent on grants from Washington. Almost 50 percent of the city's general revenue now comes from the national government, and a full-time specialist is now employed to coordinate the various programs for which money is received. Structural changes have also occurred. For instance, the planning department staff has been expanded and a separate office of downtown revitalization has been established. Another manifestation of the new realities is the housing

rehabilitation program that is underway in a low-income black neighborhood. And if the Mayor has his way, more changes will occur, for it is his goal to see Charleston move "back to being a part of the cutting edge of this country."⁷

Demographic and Economic Characteristics

Since the first census was taken in 1790, Charleston's population growth has been mercurial. The long-term trend, though, has been one of slow growth. The census of 1790 lists a population of 16,359. It had doubled by 1840, but did not double again until the early 1960's, and only then with the aid of annexations. The county's population, in contrast, has moved rapidly upward, especially since 1930. Up until 1940, the city contained more than half the population in the county. Post-War suburbanization, however, reversed this pattern: the county's population is now about 260,000, or about four times that of the city.

The racial composition of the population is in flux. The city's population was about 45 percent black and 55 percent white in 1970, but it is likely that more than half the population is now black, due to the annexation of a predominantly black area in 1977. Charleston has a greater percentage of families below the poverty level and a greater percentage with incomes above \$25,000 than any other city in the state. Poverty is a particularly acute problem. In 1970, the incomes of about 22 percent of the families in the city put them below the poverty line, and for black families this figure was almost 42 percent. The unemployment rate is about six percent overall, but varies widely throughout the city.

Charleston's economy is supported by three pillars: government, shipping, and tourism. All nine of the city's largest employers are in some way tied to government. Together they employ 11,913 persons, or about half of the total work force. The federal government, the state, and private corporations all operate port facilities in the city. Trade volumes have been growing steadily and are expected to continue to grow for at least the next ten years.

A variety of factors, including a vigorous promotional campaign and heightened interest in preservation, have contributed to the ever-increasing number of tourists who visit Charleston. The annual total has increased by 40 percent since 1975 and 60 percent since 1970. This increase is not without its problems, and many residents feel that the very factors that attract visitors in the first place--the city's "liveability" and human scale--may be threatened. Frances Edmunds, the Director of the Historic Charleston Foundation, is one who has expressed concern. "We've already got big, smoky tourist buses rolling down streets hardly wide enough for a car," she said. "You get too much of that and you begin to lose what Charleston is all about. Is it worth all the money you make?"⁸

Historic Preservation

In the early 1900's old buildings were being razed to make way for new ones in Charleston, and it had become stylish for the rich to remove flagstones from the city's walkways to more northerly latitudes. Gates, balconies, and old tiles were taken to grace homes on Long Island; and at one point an entire three-story house was carried off. Charlestonians had long been noted for their fighting spirit, though, and early in 1920,

when it was announced that one of the most distinguished houses in the city was to be demolished for a filling station, a group of them formed the Society for the Preservation of Old Dwellings in order to defend it. The House was bought and saved, and the filling station was built in the rear garden. The event began the preservation movement in Charleston.

Throughout the 1920's the Society for the Preservation of Old Dwellings sounded a clarion call whenever old buildings were threatened, and succeeded in rescuing some of them from destruction. It became increasingly apparent, however, that they would not be able to accomplish their goals unless they had tools other than persuasion at their disposal. The Society began to cast about for possibilities, and found that the mayor was also a supporter of their cause. Together they arrived at a unique, but promising approach: a zoning ordinance that included provisions for protecting historic structures. The ordinance, which was adopted in 1931, designated a 23-acre section of the city as "Old and Historic," "for the preservation and protection of historic places and areas of historic interest."⁹ Within this area, proposed changes to exterior features of any building had to be approved by a five-member board of architectural review.

By the late 1930's many of the preservationists in Charleston were concerned that, despite their efforts, not enough progress had been made toward accomplishing their goals. Some buildings had been restored, but they constituted a small percentage of all those of architectural or historic value. And two shortcomings of the 1931 ordinance had surfaced: it afforded protection to only a fraction of the valuable buildings in the city; and it only delayed, rather than prohibited, the demolition of

buildings in the Old and Historic District. As a step toward rectifying these problems, the Carolina Art Association, many of whose members were interested in preservation, conducted a survey of the city's architecture. The results were published in a book entitled This is Charleston. It listed and illustrated over 1,100 buildings of architectural or historic merit, and each was classified as "nationally important," "valuable to the city," "valuable," "notable," or "worthy of mention."

This is Charleston provided "moral support" for preservation¹⁰ and was called "one of the finest pieces of public information in the field,"¹¹ but preservationists still felt that further action was needed. Although they were not sure at first what the next step should be, an answer was provided in 1946 when the director of Colonial Williamsburg, Inc., visited Charleston and suggested that the Carolina Art Association sponsor a foundation for the purchase of old buildings. This suggestion was well received and the Historic Charleston Foundation was established in 1947.

From the outset, the Foundation's goal was to encourage the preservation of districts rather than individual buildings. Little headway was made in the first few years, but in 1957, with the aid of a large donation from a philanthropist and smaller matching donations, a revolving fund for the purchase and restoration of significant buildings was established. After considering a number of possible areas for a demonstration of the use of the fund, the Foundation chose a seven-block tract that it dubbed Ansonborough.

The Ansonborough project received almost universal acclaim as an exemplary example of historic preservation and inner-city revitalization. In all, over 50 buildings were acquired. In some cases, facades were

restored by the Foundation; in others, it restored both facades and interiors. In most instances, though, the properties were not restored at all, but instead resold with covenants requiring exterior restoration and preservation. An even greater number of buildings were purchased directly by individuals encouraged and emboldened by the Foundation's lead.

Buoyed by this success, the Foundation began a drive to strengthen the preservation-related features of the city's zoning ordinance. In 1964, it hired a lawyer to examine ordinances in other cities to see what reforms would best suit Charleston. By "happy coincidence,"¹² the city council initiated studies for a new zoning ordinance a year later. A special committee of the Foundation and its attorney met often with the city planning and zoning commission during its deliberations. The new ordinance, which was adopted in 1966, differed substantially from the 1931 version, especially in its treatment of the Old and Historic District. Most significant was a tripling in size of the district--from about 150 acres to about 450 acres--so that it included Ansonborough as well as most of the other previously excluded concentrations of significant buildings. In addition, the sections of the ordinance related to the board of architectural review's powers to postpone or prohibit the demolition of historic structures were strengthened.

In the last decade, there have been two significant preservation activities undertaken with governmental assistance: an inventory of the historic architecture of the city, and a historic preservation plan. The Inventory of Historic Architecture, which builds upon the information in This is Charleston, is intended to serve as the "definitive" catalog of the architecture in Charleston's lower peninsula.¹³ The purpose of the

historic preservation plan is to provide "the sum of proposed actions and programs designed to perpetuate Charleston's historic and architectural heritage as an irreplaceable part of its living fabric."¹⁴

Since its release, the city has taken action on two of the recommendations of the Historic Preservation Plan. First, the area of the Old and Historic District was increased to about 800 acres in 1975; it now includes the entire lower peninsula except two tracts of state-owned land. And second, a height ordinance, which specifies minimum as well as maximum heights in the various districts, was adopted late in 1978. Both of these actions were strongly supported by the various preservation organizations in the city.

The story of historic preservation in Charleston, then, is a success story, marked by innovation and driven by private individuals and civic organizations. Government has been involved, but in a reactive, contributory way rather than as a leader. When asked to cite the most important reason for the success of preservation in the city, those involved invariably answer that people have made the difference. According to Charles B. Hosmer, the "grandfather" of preservation historians, "Charleston, per capita, has had more far-sighted people who have been trying to create the basic philosophy of preservation than any other place in America."¹⁵ And Henry Cauthen, director of the Preservation Society of Charleston, (formerly the Society for the Preservation of Old Dwellings), says that while other factors are important, "committed people" have been the key component of the preservation effort in Charleston.¹⁶

NOTES - CHAPTER TWO

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3. New York Times, May 25, 1977, p. 14.
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5. DuBose Heyward, Porgy, (Dunwoody, Georgia: Norman S. Berg, 1925), p. 11.
6. Ann Satterthwaite, quoted in Steve Oney, "The Battle of Charleston," The Atlanta Journal and Constitution Magazine, May 6, 1979, p. 22.
7. Quoted in New York Times, May 25, 1977, p. 14.
8. New York Times, May 25, 1977, p. 14.
9. Samuel Gaillard Stoney, This is Charleston, (Charleston, South Carolina: South Carolina Art Association, 1944), p. 134.
10. Arthur P. Ziegler, Jr., et al., Revolving Funds for Historic Preservation: A Manual of Practice, (Pittsburgh: Ober Park Associates, 1975), p. 57.
11. Charleston News and Courier, May 7, 1950, page unknown.
12. Barbara Snow Delaney, "Preservation 1966," Antiques, October 1966, p. 527.
13. City Planning and Architectural Assoc., et al., "Historic Preservation Plan: Charleston, South Carolina," June 1975, p. 1.
14. Ibid.
15. Quoted in Charleston News and Courier, June 29, 1972, p. 10.
16. Interview with Henry Cauthen, Director, Preservation Society of Charleston, March 13, 1980.

CHAPTER THREE
CHARLESTON CENTER: CASE STUDY

Background and Planning

The inconclusive saga of Charleston Center began in 1975 when the Downtown Council, a branch of the Chamber of Commerce, formed a steering committee to stimulate revitalization efforts in the lower King Street area, Charleston's central business district. Previous historic preservation and neighborhood revitalization efforts had conspicuously bypassed this area of the city. Indeed, it suffered from the standard catalog of problems affecting troubled downtowns: high rates of crime and unemployment, empty stores, declining sales, and physical deterioration. The city's rate of violent crime, much of it downtown, was among the highest in the nation. Flanking the downtown were low-income, high unemployment areas.¹ About 30 storefronts on King Street were vacant, and four major department stores had pulled out and relocated in suburban malls.² Gross retail revenues had declined since 1970.³ And between 1970 and 1975, the assessed value of property on lower King Street fell by about 50 percent.⁴

The steering committee was comprised of King Street merchants and property owners, city officials, realtors, and representatives of neighborhood and preservation groups.⁵ One of the committee's first tasks was to approach the mayor and the city council for money to conduct a preliminary revitalization study. The city agreed to provide \$10,000 and Barton-Aschman Associates, a consulting firm with previous experience in the city, was hired to undertake the study.

Barton-Aschman began by conducting workshops to help define the problems of and prospects for the downtown. These were attended by over 200 persons, including businessmen and residents from the King Street area, members of associations with an interest in King Street, city officials, and representatives of the media.⁶ Seven goals for the downtown emerged from this process:

- o Preserve the quality of life in the peninsula area while encouraging orderly economic growth.
- o Reduce crime and the fear of crime in the King Street corridor.
- o Increase the daytime and nighttime population of the lower peninsula by all feasible means.
- o Improve the existing commercial establishments and attract new commercial activity into the King Street corridor.
- o Identify and initiate key redevelopment and rehabilitation activities in the King Street corridor.
- o Provide new employment opportunities which would raise the income levels of existing downtown residents.
- o Provide attractive pedestrian and design linkages between the various activity areas while maintaining the identity of each area.

In December of 1975, Barton-Aschman released its report, entitled "A Commercial Revitalization Program." It summarized the results of the goal-setting process, outlined a work program for the subsequent phases of the revitalization effort, and described implementation techniques and potential sources of funds for revitalization. Among the implementation techniques described were organizational alternatives, such as non-profit development corporations and downtown advisory commissions; and "tools," such as special assessment districts and public improvement areas. The list of potential sources of funds included general obligation bonds,

Economic Development Administration (EDA) grants and loans, and community development block grant (CDBG) funds.⁸

The Downtown Council, encouraged by this preliminary report, used it to support a request to the city for \$100,000 of its CDBG allocation to help pay for a more detailed revitalization plan. Recently-elected Mayor Joseph P. Riley, whose campaign platform had included pledges to inject new life into the King Street commercial district, was receptive to their request. With his support, the city council agreed to provide \$100,000 for the plan; later this was augmented by a \$50,000 grant from the Liveable Cities Program of the National Endowment of the Arts.

Barton-Aschman Associates was again selected to prepare the plan. It took the consultants a year to complete their work, during which time public input was periodically sought.⁹ The "Charleston Commercial Revitalization Plan" was released in March of 1977. It was actually five plans, one for each of the "planning districts" into which the downtown had been divided. These plans described development opportunities and recommended improvements for the five districts. In addition, each of the plans included an implementation program which outlined the costs, public and private responsibilities, funding sources and timing for the suggested improvements.

One of the "key" development opportunities identified in the Commercial Revitalization Plan was a vacant parcel of land, known as the "Belk property," where a department store had formerly stood. The plan for this district envisioned a joint public/private development consisting of a 350-room hotel, a 450-space parking garage, a 30,000 square foot convention center, and a 30,000 square foot department store on the Belk site.¹⁰ The

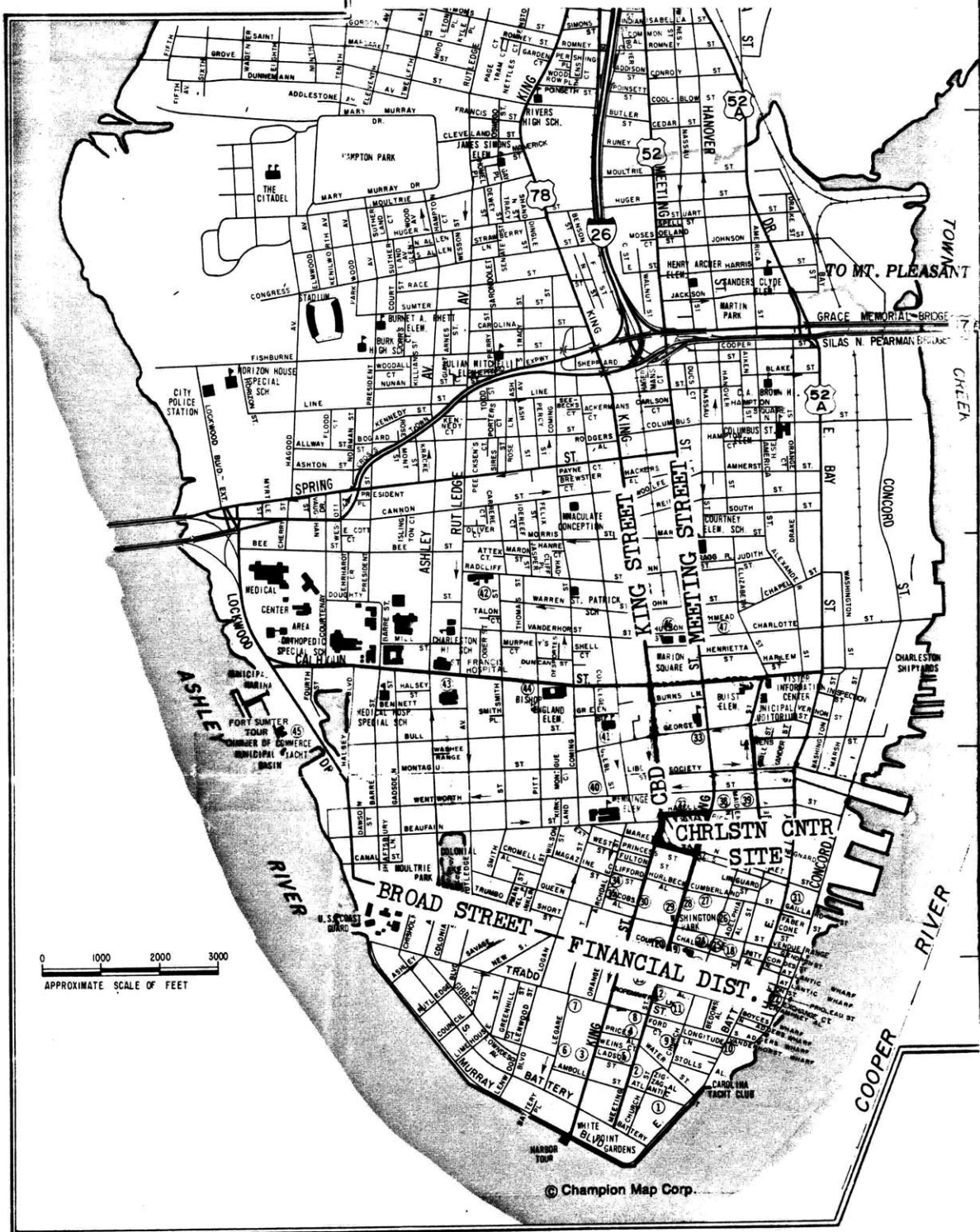
anticipated benefits of such a development were that it would serve as an anchor for the lower King Street retail area, provide "pedestrian linkage" between this area and the redeveloped market district, and help attract conventions to the city.¹¹

Formulation of the Charleston Center Proposal

At this point the city, under the leadership of Mayor Riley, assumed primary responsibility for promoting the development.¹² The Mayor established an Office of Downtown Revitalization as an adjunct to his office, and hired Kenneth Gifford, who had supervised preparation of the Charleston Commercial Revitalization Plan for Barton-Aschman, as executive director. The Office of Downtown Revitalization quickly prepared and mailed brochures urging developers interested in undertaking the proposed project to contact the city. These brochures described the development opportunity as follows: "Schematic plans indicate that the site could accommodate a 400-room hotel, a large parking structure and 20 to 30 thousand square feet of convention-conference space. In addition, ground floor area could also accommodate approximately 30,000 square feet of prime retail space."¹³

Seven developers responded to the city's solicitation. No formal criteria for selecting a developer had been established, but instead city officials waited to see what kind of replies they received.¹⁴ Eventually, Theodore Gould, president of the Washington, D.C.-based Holywell Corporation, was chosen. (At the time, Gould was under attack from Interior Secretary Cecil Andrus in Washington D.C. and was also involved in a controversial project in Miami.) Reasons for selecting him included

DOWNTOWN AREA



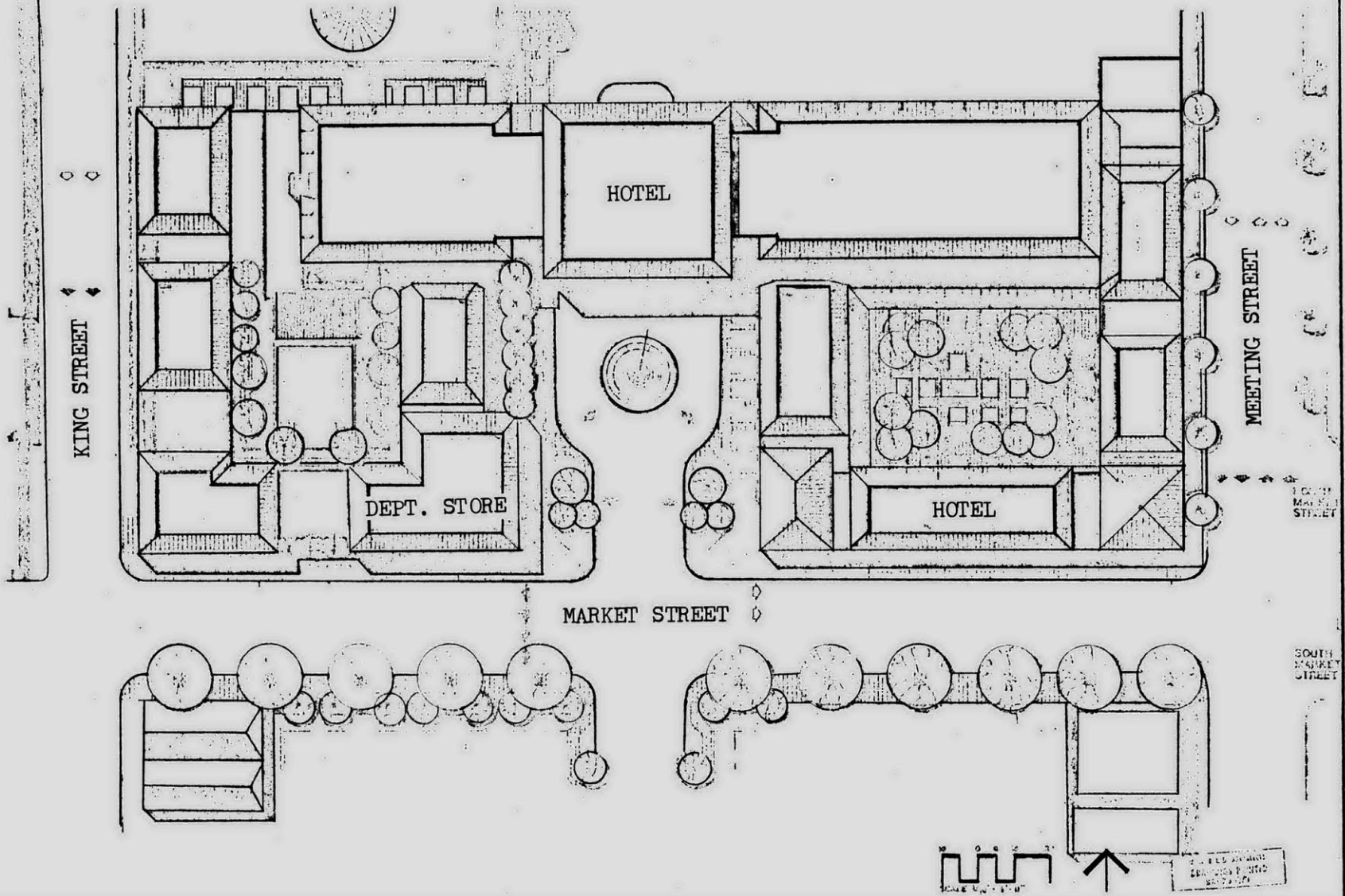
his willingness to work closely with city officials, his demonstrated ability to finance and manage projects like the one proposed, and the fact that he had taken out an option on the Belk property.¹⁵

Gould's architects--Grigg, Wood and Brown of Charlottesville, Virginia, and Vlastimil Koubeck of Washington, D.C.--moved rapidly to produce a design for the project. Gould had received a commitment from Mayor Riley and Kenneth Gifford for a project larger than that described in the brochure,¹⁶ and the designers proceeded under this assumption. While the designs and plans were being formulated, meetings were occasionally held with small groups of city officials and businessmen.

Opposition Develops

Late in 1977, Gould unveiled his plans for "Charleston Center" at a city council meeting. They called for the development of a 431-room hotel; a 532-space parking garage; 93,000 square feet of new commercial space; and a 65,000 square foot (gross area) convention center. The project was to occupy most of the block bounded by King, Meeting, Hasell and Market streets. The hotel was to rise from the interior of the block, and two- and three-story buildings were to line the perimeter. The facades of most of the existing buildings were to be preserved, and new buildings were to be erected behind them.

The total cost of the project was estimated at \$38 million. The city was to use a \$4.15 million urban development action grant (UDAG) and issue general revenue bonds to acquire property, demolish portions of 29 buildings and relocate their tenants, and make street improvements. It was also to issue revenue bonds to pay for the convention center and the



CHARLESTON CENTER

KING ST. - MEETING ST. - MARKET ST. - HABELL ST.
CHARLESTON, SOUTH CAROLINA

GRAND ARCHITECTS ASSOCIATION
PHYSICIAN AND ARCHITECTS

FELIX BELLESCHE
FAIA

CONSULTANT

VLADIMIR ROUSEK, AIA

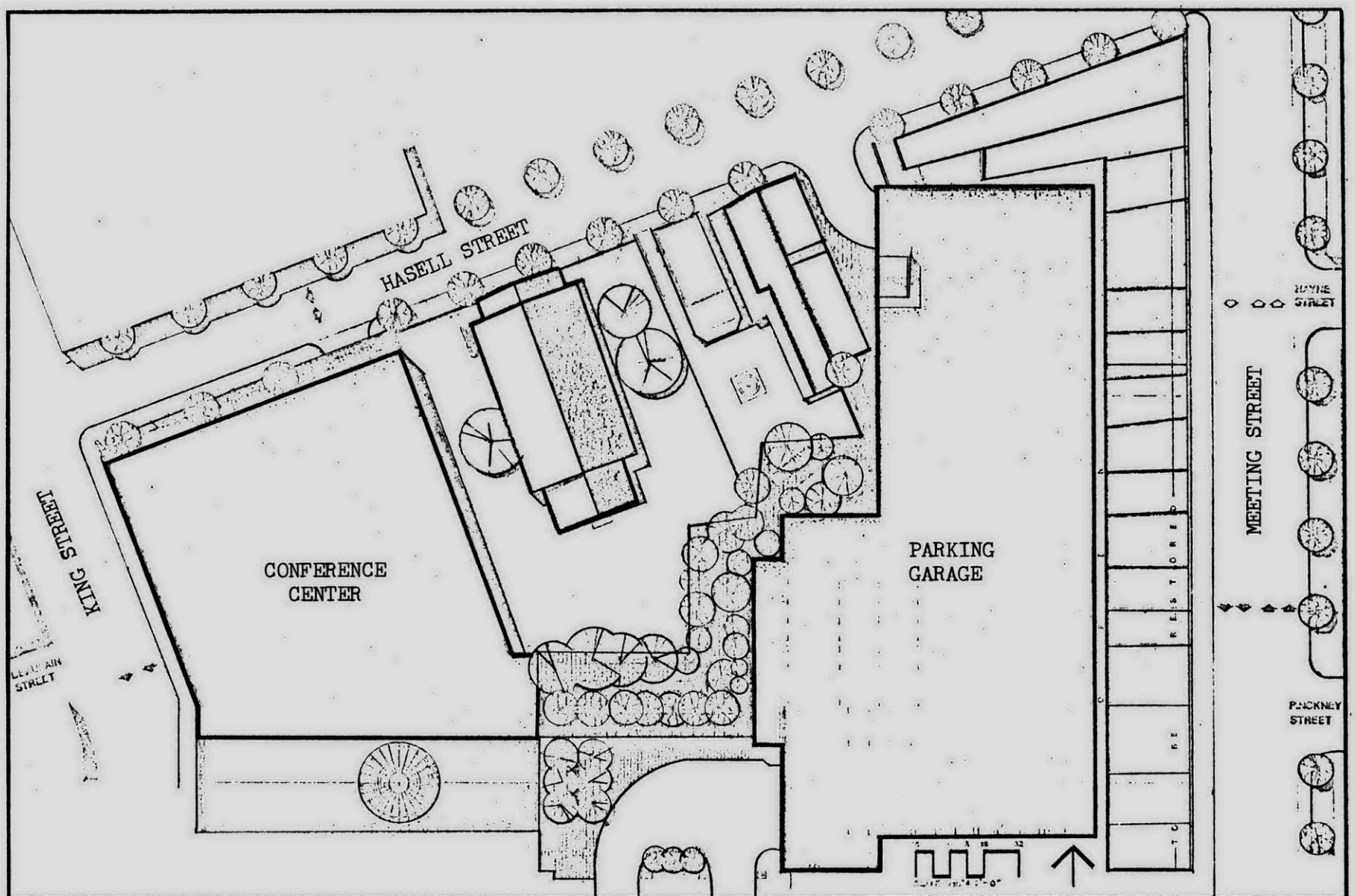
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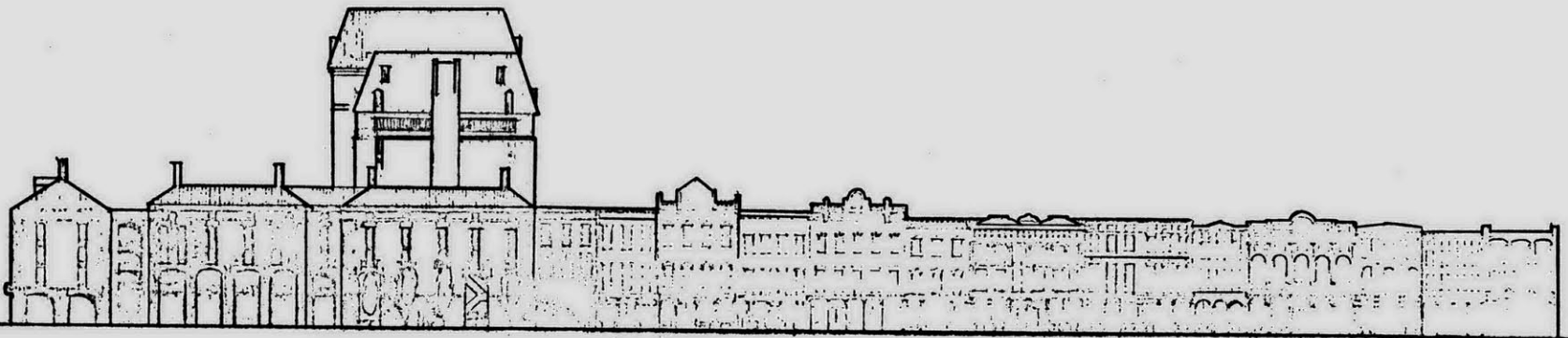
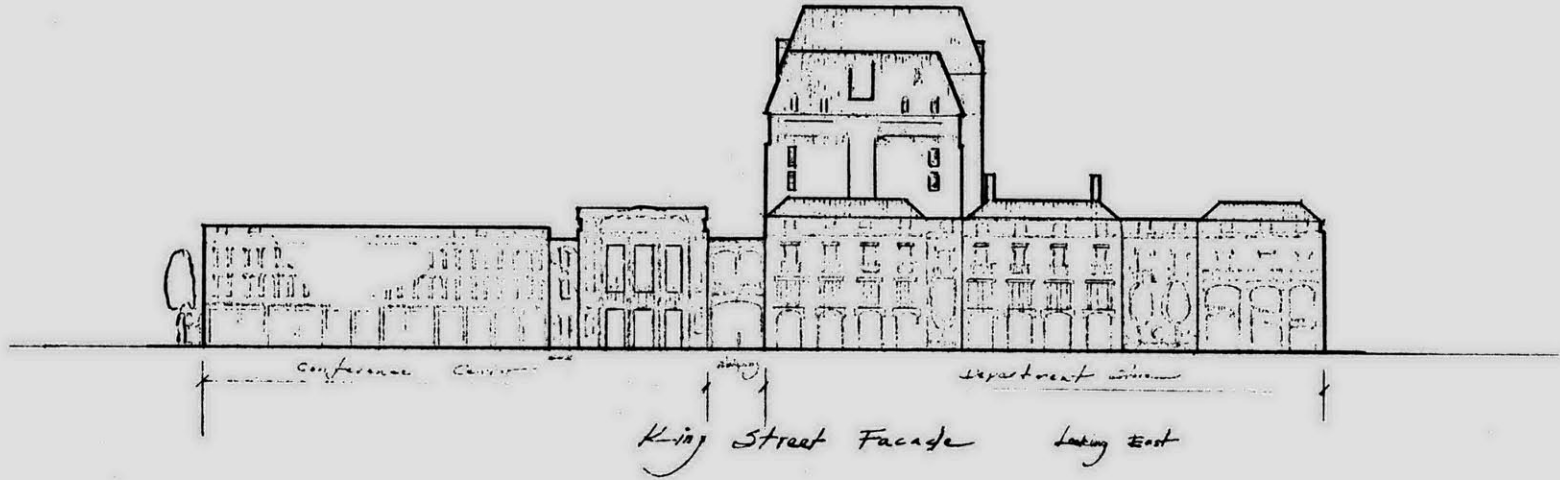
LAND SCAPING



SCALE 1/4" = 1'-0"

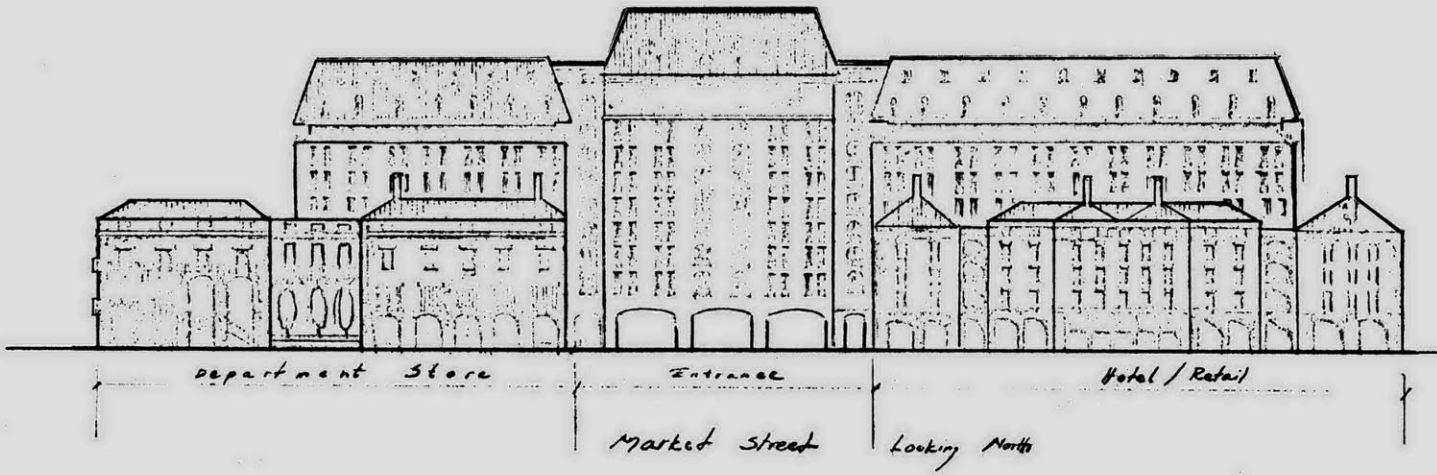
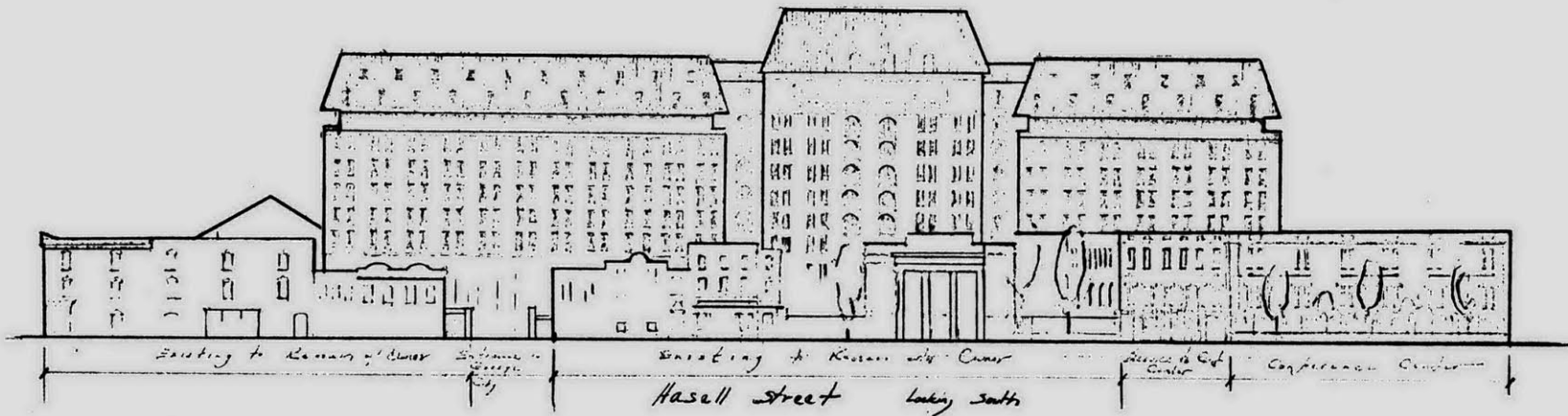


<p>CHARLESTON CENTER KING ST. - MEETING ST. - MARKET ST. - HASSELL ST. CHARLESTON, SOUTH CAROLINA</p>	<p>GRIGG, WOOD & BROWN ARCHITECTS - AIA 1000 MARKET ST. - CHARLESTON, S.C.</p>	<p>PIETRO BELLONCH FLSA CONSULTANT</p>	<p>VLACHOS, KOSMIN, AIA ARCHITECT 1111 21ST STREET - CHARLESTON, S.C. 252-2480 - W. S. SCOTT & ASSOCIATES</p>	<p>DATE: 11/18/83 SHEET NO. 41 OF 41</p>	<p>LANDSCAPING</p>
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Meeting Street Facades Looking West

<p>CHARLESTON CENTER KING ST., MEETING ST., MARKET ST., HOWELL ST. CHARLESTON SOUTH CAROLINA</p>	<p>LEWIS RICHARDSON ARCHT. & ENGRS. CHARLESTON, S.C.</p>	<p>DIAPHRANE ARCHT. & ENGRS. CHARLESTON, S.C.</p>	<p>WILSON R. ROBERTS ARCHT. & ENGRS. CHARLESTON, S.C.</p>	<p>WILLIAM BRIDGES ARCHT. & ENGRS. CHARLESTON, S.C.</p>	<p>1957 1958</p>	<p>ELEVATIONS DRAWN BY [Name]</p>
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<p>CHARLESTON CENTER KING ST. INTERSECTION OF MARKET ST. HASSELL ST. CHARLESTON, SOUTH CAROLINA</p>	<p>GRIGG AND EMERSON ARCHITECTS CHARLESTON, SOUTH CAROLINA</p>	<p>CONSTRUCTION 1970</p>	<p>LEONARD M. HARRIS ARCHITECTS WASHINGTON, D.C.</p>	<p>FRANCIS COLLEGE PARK LEONARD M. HARRIS WASHINGTON, D.C.</p>	<p>1970 1970</p>	<p>ELEVATIONS EAST AND SOUTH</p>
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parking garage. Holywell was to lease these from the city for 40 years-- thus retiring the bonds--and build the hotel and the commercial space at a cost of \$23 million.

Although the details of the plan were still sketchy at this point, the city council approved of the project "in concept."¹⁷ Others, however, were furious when they learned of the intentions of Gould and the city. Owners of existing businesses on the block opposed both plans to condemn their properties and the way these plans were presented to them as a fait accompli. Preservation and neighborhood groups opposed the proposal for a host of other reasons, and moved quickly to condemn the project. The Historic Charleston Foundation and the Preservation Society of Charleston issued critical statements as did a neighborhood organization, the Harleston Village Association. Two other neighborhood organizations, the Charlestown Neighborhood Association and the Historic Ansonborough Neighborhood Association, adopted resolutions opposing the proposal.

In general, opponents resented the rapid transformation of the relatively small project suggested in the Charleston Commercial Revitalization Plan into a "significantly larger" hotel/convention center complex.¹⁸ They believed that the mayor had decided to steamroll a larger project through after the "carrots" of federal funding and millions of dollars from a national developer were dangled in front of him.¹⁹ Ann Satterthwaite, a consultant hired by critics of the project, described the situation as follows: "Mayor Riley is. . .very ambitious. He's young and has caught Jimmy Carter's eye. As soon as he saw the potential for the center, I think he decided to tie his fortune to its rising star."²⁰

Other, more specific, criticisms were voiced as well. These are perhaps best summarized in a statement released by the Historic Charleston Foundation:

We are convinced that the complex is out of scale with the block on which it is located, and with the surrounding blocks, and that it will have an adverse effect on the historic and architectural quality of the Historic District. We are convinced that the block under consideration is too compacted--that the various buildings required by the developer; the square footage worked into their formula; the number of rooms required in the hotel; the needs of the parking garage for entrances, turnings, bus holding, pick up and delivery; the requirement for the retail spaces; all added to the additional requirement of a convention center (or conference center) with a very large assembly hall and the requirement of necessary open spaces, patios, etc. that would give the complex some appeal that all this development in the one block will indeed create a massive intrusion in the area, and have an adverse impact on the quality of life in the Historic District.

In addition, there is a very real objection on our part to the demolition of the major portion of the buildings on the west side of Meeting Street between Market and Hasell Streets leaving only the facades. These will then become false fronts to buildings contrived behind them. Buildings that really have no integrity of their own, as the first two floors--of very little depth will be represented as shops--new shops--with old fronts--and above all that a parking deck. To all this we object.

We maintain the position taken in . . . favor of new retail space and a smaller new hotel on the vacant portion of the block. We would welcome relief, however, from the diverse usage of this block, and are reluctant to encourage a new facet of the tourist industry, conventions, in an area in which tourist congestion has become a problem.²¹

1978: Supreme Court Decision and Draft EIS

With the stage thus set, the controversy entered 1978, a year marked by two events of significance: the South Carolina Supreme Court considered the constitutionality of the proposal, and an environmental impact

statement was released. Litigation testing constitutionality of the proposal was initiated early in the year by the city at the request of its bond attorneys. They were concerned that unless the legality of the proposed undertaking was established by the courts, the city would have difficulty selling bonds to finance its portion of the project.²² (South Carolina courts are notoriously conservative with regard to condemnation of property and other aspects of urban redevelopment; even urban renewal was never permitted in the state.) At the invitation of the trial court, several other parties joined the suit.²³ The plaintiffs challenged the proposed contract between the city and Holywell on a number of grounds, the most important being that the property to be taken by condemnation would not be put to public use and that public money would be used to finance a project that did not serve a public purpose.²⁴

In April, a lower court upheld the proposed contract and dismissed the complaints. It held that the block under consideration was suitable for redevelopment, thus justifying the condemnation of property. The court also held that the city's portion of the project would serve a public purpose, since leasing the convention facility and parking garage to Holywell would not preclude the public from using them.²⁵

The plaintiffs appealed the case to the South Carolina Supreme Court, where it was heard in August. The Supreme Court overturned the decision of the lower court on the last day of the month. In a unanimous decision, it ruled that the proposed condemnation of private property to provide a site for the project failed to meet state requirements that condemned property be used to serve a public purpose. The court's opinion stated that "the proposed plan would allow the city to join hands with a private

developer and undertake a project primarily of benefit to the developer, with no assurance of more than negligible advantage to the general public."²⁶

Before the trial, Mayor Riley's position was that an adverse ruling would constitute a death knell for the project.²⁷ He changed his mind afterward, though, and said that while the Supreme Court ruling was an "important setback," the project was "not killed."²⁸ Moreover, he said that he and other city officials began considering alternative plans for the project "within five minutes of hearing the court's decision."²⁹ A week later, Riley, Gifford and other city officials flew to Washington to meet with representatives of Holywell to try to salvage the project.

At about this same time, an 800-page draft environmental impact statement (EIS) was released by the city. It described the proposed project and four alternatives (including the "no build option") and compared them with respect to their impact on the physical environment, land use patterns, transportation and traffic, employment, taxes and "aesthetics." At the end of the analysis, the proposed project emerged as the best of the alternatives. The draft EIS concluded that it would "provide a major new anchor for the historic commercial district. . .and . . .further stimulate private investment in the area. The total impact of the proposed action therefore is a major contribution to the conservation of the historic commercial district, which in turn has a major positive effect on the preservation of the surrounding historic residential neighborhoods."³⁰

After the release of the Draft EIS, Mayor Riley commented:

We're very pleased with results. It appears to confirm and endorse the hotel/convention center as being far superior to the conditions that now exist downtown. It clearly points out that the alternative proposed by the city overall meets the goals and objectives of the central business district.³¹

1979: The President's Advisory Council on Historic Preservation, Design Changes, and More EIS's

The next event of importance occurred on January 20, 1979, when the President's Advisory Council on Historic Preservation held a public hearing on the proposal. The hearing was required by the Historic Preservation Act of 1966, which requires the President's Advisory Council on Historic Preservation to review and comment on federally-funded undertakings that affect properties listed on the National Register of Historic Places. The Historic Charleston Foundation announced its intention to hire three nationally-known architects--Malcolm Holtzman of New York, Jean Paul Carlhian of Boston, and Hugh Jacobson of Washington, D.C.--to review the plans for the project and suggest design changes. Mayor Riley announced that Holywell had hired another architect, Pietro Belluschi, to review the hotel design in consultation with the principal architects.³²

Opponents of the project expressed numerous complaints at the hearing. Representatives of the Preservation Society of Charleston charged that the hearing was "premature" since neither final design plans nor an EIS were available to the public beforehand.³³ The president of the National Center for Preservation Law, whose organization had been invited to enter the fray by opponents, made similar complaints and asked for a continuance of the hearing until all the facts were available to the

public. He closed with a warning: If you choose to proceed without [a hearing on the EIS], we will seriously consider whatever action may be necessary to prevent the consummation of your work."³⁴ A representative of the National Trust for Historic Preservation and Russell Wright, co-author of the city's historic preservation plan, also made critical statements.

Two days after the Advisory Council hearing, a "Revised Draft EIS" was released. Physically, the plans were almost identical to those presented in the Draft EIS. Financial arrangements, however, were significantly different. The city was to use a \$3 million EDA grant and bond revenues to build and operate the parking garage; make street and utility improvements; conduct archeological, historical and environmental reviews; and administer the project. Holywell was to acquire the necessary sites and build the hotel, retail and commercial space, and the conference center. To help finance these activities, the city, through the Charleston Local Development Corporation, was to lend Holywell \$4.15 million in UDAG funds.³⁵

On February 24, 1979, a public hearing on the Revised Draft EIS was held. By this time the dispute over the center was vitriolic, and criticisms of the proposal were sharper than ever at the hearing. After attacking the "inadequacy" of the EIS, a group of opponents, including members of the Preservation Society of Charleston and the Charlestown Neighborhood Association, as well as consultant Ann Satterthwaite, walked out of what they referred to as "an illegal public meeting."³⁶ A spokesman for the National Trust for Historic Preservation also criticized the EIS.

Others spoke in favor of the project and the EIS. Mayor Riley commended the EIS and called it "exhaustive." The sentiments of another supporter, who urged that the city "quit fooling around and build the complex," were shared by many in the audience.³⁷

On the following day, the architects hired by the Historic Charleston Foundation released their assessment of the proposal. They described the general approach of the plan--lining the perimeter of the site with low-rise buildings and positioning the high-rise "slab" at the center in an effort to diminish the visual impact on pedestrians--"correct" and "commendable," but added that "the preliminary design does not completely succeed based on [these] project concepts."³⁸ They recommended that the height of the hotel be reduced by two or three stories, and criticized the "style" of the buildings and some of the details of the project.

In mid-May, an "agreement in principle" was reached between city officials and staff members of the President's Advisory Council on Historic Preservation. The agreement acknowledged that the project would have both adverse and beneficial impacts, and included a list of stipulations intended to "avoid or mitigate" the negative impacts. Among these were measures to reduce the impact of increased tourism and guidelines for restoring the facades and buildings that were to be preserved. Public hearings on the memorandum of agreement were held during June and the first part of July. It was signed by David K. Wilson, Vice Chairman of the Advisory Council, in mid-July. Afterwards, Wilson said the decision was "the most difficult one for me to make during my tenure on the Council."³⁹

The final EIS for the project was released in September. This time, the financial arrangements remained the same and modifications to the physical aspects of the project were proposed. The conference center was smaller and the height of the hotel was changed from a uniform 114 feet to 120 feet high at the center and 104 feet high at the east and west wings. It is not clear what the impetus for these modifications was: some observers attribute them to the advisory panel hired by the Historic Charleston Foundation; others attribute them to Pietro Belluschi, the architect hired by Holywell; and still others say they were made simply to appease critics of the project.

Recent Developments and the Status of Charleston Center

In January of 1980, the city initiated a lawsuit against the Department of Housing and Urban Development and the Department of Commerce. The stated objective of the suit is to "seek a declaration that the release of grant funds to the City of Charleston, South Carolina from the United States Department of Housing and Urban Development and the United States Department of Commerce as a prerequisite to the construction of the Charleston Center project is not a violation of the National Environmental Policy Act. . .or the National Historic Preservation Act."⁴⁰ After the suit was filed, Mayor Riley said that such a declaratory judgement would "take some of the steam" out of subsequent lawsuits filed by opponents, thus facilitating progress of the project.⁴¹

In February of 1980, the National Center for Preservation Law, the Preservation Society of Charleston, the Charleston Neighborhood Association, and the Harleston Village Association initiated a lawsuit

against HUD, the Department of Commerce, the Advisory Council on Historic Preservation and the City of Charleston. The stated objective of the suit is to:

[S]eek a declaratory judgment that with respect to the proposed Charleston Center Project defendants have not complied with the applicable requirements of the Housing and Community Development Act of 1966. . .the National Environmental Policy Act of 1969. . .The National Historic Preservation Act of 1966. . .[and] the Public Works and Economic Development Act of 1965. . .⁴²

Those who filed the suit maintain that it will be a "landmark" case because it challenges the right of HUD to delegate environmental review responsibilities to grant recipients under the UDAG program.⁴³

The Charleston Center battle is now more than two and a half years old and none of the participants will venture a guess as to when it will end. Whether Charleston Center will ever be built is just as unclear. The estimated cost of the project is escalating due to inflation, and Gould has threatened that if it is delayed much longer, he will allow a "family-style" motel (rumored to be a Holiday Inn) on the vacant portion of the site.⁴⁴ At a recent meeting with local businessmen, Mayor Riley promised that each day he would ask himself, "What can I do to get the Charleston Center built?" and said that he had just begun to fight.⁴⁵ Opponents are also digging in their heels for what might well turn out to be a protracted conclusion to this uncivil war.

Conclusion

The Charleston Center case is at once more subtle and more significant than a cursory look would suggest. No one involved wears a black hat; indeed, both sides can credibly claim to have the good of the "tout

ensemble" as their overriding objective. Nor is it an open-and-shut issue such as a fast-food restaurant threatening to destroy an historic cemetery. Opponents and proponents agree that the Belk property should be developed, and plans have been modified several times in response to criticisms. What really lies at the heart of the controversy is disagreement over the direction in which the city should move. Those who favor the proposal tend to be of the opinion that Charleston can no longer remain isolated from the realities of the twentieth century. As Kenneth Gifford says:

This is the first thoughtful architecture Charleston has had in years. Just think, if some of these preservationists had been around 200 years ago trying to save Charleston's original buildings, half of the buildings they now want to save would never have been built in the first place. This city just can't exist anymore in a vacuum.⁴⁶

Those who object to the proposal argue that the city is different, that it is fragile, and that Charleston Center would be too much too fast. One critic commented:

Charleston is like a redwood forest. These old buildings, this town, have as much environmental significance as the most pristine wilderness area. We shouldn't mess with them.⁴⁷

And another explained: "You see, Charleston is a whole way of life and the Center is diametrically opposed to it. We'll do anything to stop it."⁴⁸

NOTES - CHAPTER THREE

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CHAPTER FOUR
CHARLESTON CENTER: ANALYSIS

The question to be addressed in this chapter can be simply stated, although its answer cannot. The question is: Why has the Charleston Center controversy reached an impasse? Or, from a slightly different angle: Why, despite their best efforts, have neither the proponents nor the opponents of the project been able to emerge victorious? In many respects, it would be accurate to answer that it is simply the nature of the proposal. That is, many of the explanatory variables do not relate only to Charleston Center; they also affect other similar undertakings. Some of these are analyzed in the following chapter. Other explanatory variables are, however, specific to Charleston Center, and they provide the focus for the discussion in this chapter.

As a way of structuring the discussion, the perspective of the proponents will be assumed. In other words, the events and decisions that have prevented construction of the project will be emphasized. It will be argued that some of the problems encountered were beyond the proponents' control, while others were clearly of their own making. In the first category are the existence of well-organized and powerful preservation and neighborhood groups, and two other factors that, for want of better titles, will be called "the two-edged sword of federal involvement," and "an irony of the UDAG program." In the second category are the city's lack of experience with similar projects, shortcomings of the planning process and the plan, political miscalculations by city officials, and the nature and distribution of the project's costs and benefits.

The City's Lack of Experience with Similar Projects

Underlying many of the problems encountered was the fact that the city government had no experience with projects like the Charleston Center: it was larger and more expensive than any project ever undertaken by the city, and it was the city's first involvement with joint public/private development in any of its guises. This lack of experience had several consequences. One was that the city had neither the necessary staff expertise nor the administrative machinery to undertake such a project. Another was that city officials were overly sanguine about the ease with which the project could be undertaken. And finally, it was more difficult for proponents to convince others of the benefits of the project, since they could not cite similar existing projects as examples.

Cities that become involved in public/private redevelopment programs often emerge from the experience with significantly altered governmental structures. For instance, in the cities where urban renewal programs were most pronounced, such as New Haven, Atlanta, and Philadelphia, centralization of political power was increased and redevelopment bureaucracies were formed.¹ Because renewal provided a new source of patronage and capital expenditures that translated into potent political resources, and because it involved large-scale projects requiring coordination and control, structural support was provided for entrepreneurial, centralizing mayors like Richard C. Lee of New Haven.² Urban renewal also provided cities with the staff expertise and patronage jobs required to build bureaucratic machines in redevelopment agencies. In many instances these agencies became important forces in city administration.³

Charleston does not have a history of participation in such programs, so it never underwent these changes. That the power of the mayor was not strengthened is of no great consequence, since the mayor has traditionally had at his disposal the formal authority and resources to enable him to be the most powerful force in city politics. But the lack of a redevelopment agency with its staff expertise is important. A redevelopment agency could have managed the city's role in the project, and staff expertise would have helped the city avoid some of the pitfalls it encountered. An example is the original contract between the city and Gould: it was struck down by the state Supreme Court, but if it had been structured differently it would have withstood the Court's scrutiny.

Although Mayor Riley and other city officials were by no means unsophisticated, they were not aware at the outset of the project that what seemed to be a relatively straightforward proposition would quickly become almost inextricably complex.⁴ There have been legal problems, economic problems, and pervasive political problems. Nor were city officials aware of how much of their time the project would consume. Since Riley's election in 1976, the project has always been near the top of his agenda, and officials of the Office of Downtown Revitalization have done little else since the office was established in 1977. Recently, Riley cited the drain that the latest lawsuit filed by opponents would have on his administration. He said that he and other city officials would have to spend at least a month this year in Washington, and estimated that the cost of legal services would be between \$100,000 and \$150,000. As a result, he added, "other aspects of city business will suffer."⁵

Another important consequence of the city's lack of experience with similar projects is that proponents have found it difficult to convince others of the benefits of the center, since they have no local precedents to point to. The main argument in favor of the project is that it would spur the revitalization of the lower King Street commercial district, but this strikes many observers as overly-optimistic speculation. Doubts also surround the claim that the center would encourage pedestrians to walk between the restored market and lower King Street. Of the claimed benefits of the center one of the few that goes unchallenged is that jobs would be provided, but there is uncertainty even here: Estimates of the number and types of jobs to be created have been changed repeatedly, and there is no guarantee that these jobs would go to city residents.

Shortcomings of the Planning Process and the Plan

For many decades, students of local government have been perplexed by the fundamental "tension" that exists between the nature of urban political culture and political systems and the requirements of systematic, "rational" planning.⁶ Different approaches to overcoming or moderating this discrepancy have been put forth. From these has emerged a politicized concept of planning which stresses that planning must be linked to a better understanding of the social structure and political processes of a community. Emphasis is placed on the idea that, to attain desired changes, adequate support must be mobilized within the community. During the planning process, therefore, attention must be devoted to devising strategies for consensus-building, coalition-formation, persuasion, and bargaining.⁷

An effective plan is one that anticipates the constraints on the user's freedom of action and attempts to meet his criteria of how the plan can be employed in the situations that are expected to arise. It must be amenable to the various contingencies that can be anticipated. A plan that depends heavily upon an ability to predict and control future social-political developments, or one that is too inflexible to permit adaptation on the basis of learning, feedback, new information, or unexpected political developments, is often a plan that goes unimplemented.

The planning process and the plan for Charleston Center violated these tenets. For the most part, planning for the project was done in secrecy and little effort was made to include a variety of interests and groups in the process. This led to suspicion about the project (opponents like to relate stories of "back room, back-of-the-envelope deals" between city officials and Gould), and meant that the constituency in support of the project was not as strong as it might have been. In addition, it led city officials to underestimate opposition to various aspects of the plan.

In part because of the process through which it was formulated, the plan provided opponents with many easily assailable targets. Two of its components--the proposal that the city build and then lease the convention center and the garage to Gould, and the proposed condemnation of existing properties on the site--encountered harsh criticism and were eventually declared illegal by the state Supreme Court. This damaged the perceived legitimacy of the project and forced city officials and Gould to restructure their financial arrangement. The plan also called for the partial or total demolition of most of the existing buildings on the site. This, too,

damaged the project's prospects. Such structures are revered and zealously protected in Charleston, and opponents were quick to attack the demolition plans.

Political Miscalculations by City Officials

If attention to political realities is important during the process of formulating a plan, it is imperative that they be considered once the implementation process is initiated. Success depends upon the ability to foresee those interests and groups likely to oppose different aspects of the plan in varying degrees and with various instrumentalities. Opponents have to be "won over," "neutralized," or effectively "bypassed." In instances where nothing can be done to assuage the recalcitrant head of an organization, an interest group, or even an administrative office, the plan must be re-examined or altered to reduce its vulnerability to this particular impediment.

Often it is the quality of leadership that makes the difference between achieving outstanding success, mediocre or uneven results, or miserable failure of planning efforts. With regard to urban renewal in New Haven, for example, "very little happened until redevelopment became attached to the political fortunes of an ambitious politician," Mayor Lee, who possessed political skills of a high order.⁸ In Cleveland, on the other hand, ineffectual mayoral leadership contributed to the failure of a program of urban renewal that was overly ambitious, inadequately planned, and poorly implemented. At one point the situation was so bad that the Department of Housing and Urban Development temporarily cut off support to the city.⁹

The quality of leadership and the political miscalculations of proponents are among the most important reasons not a brick has been laid in the Charleston Center case. Perhaps the most obvious example is the proponents' underestimation of the power and perseverance of preservation and neighborhood organizations in the city. These groups had long played an important, and often decisive, role in Charleston's political scene, yet few efforts were made to anticipate or respond to their criticisms. Indeed, they have been confronted head on. This does not sit well in a city whose politics were recently described as follows: "Charleston has been a city of accomodation--a place, in the words of one local attorney, where everyone knows pretty much what he can get and doesn't push hard beyond it."¹⁰ Rather than play by these accepted rules, however, city officials and other supporters of the project have been bellicose and intransigent. To cite an example, Mayor Riley recently made a speech in which he called opponents of the project "selfish, narrow-minded people [who] aren't going to ruin the city of Charleston," and referred to some of the complaints in the opponents' latest lawsuit as "outright lies."¹¹ This approach has angered foes of the center and contributed to the intensity of their opposition. And, at least at this point, it has precluded the possibility of an amicable resolution of the conflict.

The Existence of Well-Organized and Powerful Preservation and Neighborhood Groups

Preservation and neighborhood groups in Charleston have little formal power, but they do have other political resources including money, expertise in dealing with government, and public support. Moreover, they

have a track record of successfully opposing development proposals. For instance, in 1973 the city granted permission to a developer to raze a block of buildings in the lower peninsula for the construction of an eight-story condominium complex. Preservationists feared that the development would "unalterably change the character of Charleston by reshaping the skyline, allowing more high-rises, and cutting off Ansonborough" from the rest of the city.¹² They were able to block the proposal by purchasing the site with the proceeds from a nationwide fund-raising campaign which was aided by editorials in The Washington Post and television commercials shown throughout the country.

As is mentioned above, proponents of the project adopted a strategy of fighting these groups rather than working with them. At first, opponents attacked specific aspects of the proposal--its design, height, traffic impacts and so forth. But as modifications made some of these changes groundless and as the city responded with counterarguments, opponents climbed on to the higher plane of symbolic issues. Specific, bounded conflicts gave way to battles between "the neighborhoods" and "city hall" and between "local residents" and an "out-of-town developer."

Had they not reached for broader symbolic issues, the fact that the opponents' specific objections to the center were sometimes without merit might have seriously hurt their position in both mobilizing support and dealing with public bodies such as the President's Advisory Commission on Historic Preservation. Turned into a symbolic issue and a crusade to save "Historic Charleston," however, opponents did not have to argue the case point by point. They merely had to appeal for the support of their

neighborhoods and way of life--a position far more difficult to challenge than objections to buildings of a certain size and design.

The Nature and Distribution of Costs and Benefits

Charleston Center would affect the interests of different groups of people within the city in quite different ways. Many of the best organized, most articulate, and most influential groups are convinced that they would bear an inordinate share of the costs of the project. Through the use of a variety of strategies and tactics they have acted, in effect, as "veto groups" (to use David Reisman's term) and successfully thwarted the proposal.

But this analysis begs the question: Why do not the putative beneficiaries of the project organize and apply pressure counter to that of the veto groups? The answer is that some persons have found it in their interest to do so while others have not. In addition to city officials, supporters include the two daily newspapers and downtown businessmen and property owners. With the exception of city officials, the editors of the newspapers are probably the only persons in the city who consider it their duty to consider issues from the perspective of the "public interest" as a whole. Their position is that it is usually best served by physical and economic growth and change. Not unexpectedly, therefore, they back the project.¹³

Downtown businessmen and property owners favor the project for another reason: it promises to help them make more money. Businessmen hope that it will increase the volume of their trade by attracting tourists and suburbanites into the area, while property owners see

increased turnover and higher property values and rents as consequences of the project.

Although important, the support of these actors has not been enough to tip the scales in favor of Charleston Center. Broad public support might have been able to do so, but for two reasons it was not forthcoming. First, some of the benefits of the project are in the nature of "public goods"--that is, they are such that if anyone benefits, all must benefit. Cleaning up the vacant Belk site and reducing crime in the area are examples. Second, even though many of the benefits will accrue to specific individuals--persons who obtain jobs, for instance,--it is difficult to predict exactly who they will be. In both cases it would be irrational for the ordinary citizen to lobby for the project, since he would probably not receive benefits commensurate with his costs of taking action.¹⁴

The Two-Edged Sword of Federal Involvement

Federal involvement in the Charleston Center case is problematic, for it is at once essential and harmful. Federal dollars, in the form of grants from the Department of Housing and Urban Development and the Economic Development Administration, are central to the financing of the project. Yet these funds did not come unencumbered. The city had to comply with various federal regulations, which proved to be a time-consuming and expensive process that left it vulnerable to attack on a number of fronts.

Gould would not have become involved in the project without the enticement of public funds, and the city would not have been able to offer such assistance without federal largesse.¹⁵ The HUD and EDA grants were,

in an important sense, "free goods"--paid for by persons outside Charleston and thus not requiring a reallocation of funds away from competing city departments. Had such a transfer of funds been required, the Mayor would have been forced to bargain with his own agencies rather than allowing him to present the grants as gifts to the city. This would have been yet another obstacle in the path of the project.

Along with federal funds, though, come federal regulations and requirements. Two of these proved to be particularly onerous. One was the preparation of an environmental impact statement for the project, four versions of which have been released thus far. Preparing these cost the city thousands of dollars and thousands of hours of staff time. Another was review of the project by the President's Advisory Council on Historic Preservation. This, too, required significant expenditures of city resources.

Political tolls also accompanied these requirements. Complying with them decreased the probability that the center would be built, because it brought more participants into the arena and added to the long and tortuous path of decision points that had to be cleared.¹⁶ For instance, not only did the EIS's provide grist for opponents and their consultants, but they also provided excuses for outside groups, such as the National Trust for Historic Preservation, to become involved. To cite a second example, the President's Advisory Council on Historic Preservation signed a memorandum of agreement on the project only after prolonged negotiations, and even then it contained a list of stipulations.

As important as these consequences of using federal funds were, they have been overshadowed by another consequence: the use of federal funds

for the project has meant that opponents can challenge it on the ground that applicable federal laws, such as the National Historic Preservation Act of 1966 (NHPA) and the National Environmental Policy Act of 1969 (NEPA) were not complied with. NHPA is the less well-known of these two laws; it requires that the effects of proposed federal undertakings on structures or districts included in the National Register be considered by the heads of federal agencies having jurisdiction over such undertakings, and that the Advisory Council on Historic Preservation be given an opportunity to comment on such undertakings.¹⁷ The requirements under NEPA are similar, but broader in scope. It requires the preparation of a detailed statement of the environmental impacts of major federal actions that significantly affect the human environment. These statements must include analyses of the adverse environmental effects of the proposed actions and alternatives to the proposed actions.¹⁸

In a move that could deal a final blow to the Charleston Center proposal, opponents recently filed a suit charging that the city did not fully comply with the requirements of either law. Among other charges, opponents contend that the Advisory Council failed "to give full and adequate consideration to" the project, and that "the execution of a Memorandum of Agreement by the Executive Director of the Advisory Council, who is not a member of the Advisory Council, does not comply with [NHPA]."¹⁹ The suit also maintains that the EIS for the project was inadequate because insufficient attention was given to alternatives to the proposed project and because the potential negative environmental impacts of the project were not sufficiently analyzed.²⁰

An Irony of the UDAG Program

A primary goal of the UDAG program is to quickly obtain results from funded projects. The irony is that in the Charleston Center case two of the mechanisms for achieving this end had the opposite effect: they impeded, rather than facilitated, the progress of the project. The first of these was the requirement that the city obtain a commitment from a developer before applying for a grant. This provided an incentive for the city to forge an agreement with a developer in as little time as possible, and to engage in a planning process that emphasized producing a proposal for the project rather than building a constituency for the project. The delegation of environmental review responsibilities to grant recipients is a second mechanism for facilitating the progress of funded projects. Not only was conducting the necessary reviews a time-consuming, expensive, and politically perilous process in the Charleston Center case, but it eventually landed the city back in court. The ultimate effect of these "short cuts," then, was to prolong the amount of time before the project got underway.

NOTES - CHAPTER FOUR

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CHAPTER FIVE
LESSONS FOR CHARLESTON

The Changing Environment for Urban Development

Joint development projects, like almost all activities in which government is involved, confer benefits on some people and impose costs on others. Twenty years ago, the negative impacts of development programs were usually accepted as the inevitable price of progress. Today, however, plans for new development often meet with impassioned opposition. A classic example of this shift in attitudes regarding development is the anti-highway revolt. During the early 1960's highways were built in inner city areas with little resistance. In time, though, a backlash developed in older, high-density cities like Boston and San Francisco; later it spread to such newer, auto-oriented cities as Denver, Miami, and Portland (Oregon).¹ Resistance to urban renewal followed a similar pattern. For over a decade the program proceeded in an atmosphere of relative quiescence, but during the 1960's opposition to renewal plans grew increasingly strident. A more recent illustration is the UDAG program. According to Kathryn Welch, who is conducting a study of the program for the National Trust for Historic Preservation, 176 UDAG programs in almost as many cities have been embroiled in controversy.²

Not only do proposals for new construction often arouse opposition, but in a growing number of cases opponents are emerging victorious from development conflicts. Anti-highway groups have successfully blocked expressways and drastically curtailed construction plans in cities throughout the country. Criticism of the urban renewal

program caused its emphasis to shift from clearance and redevelopment to rehabilitation. In more and more instances, UDAG-supported development projects are being thwarted. And so on. More examples could be cited, but the trend is clear: in many places the balance of power in the arena of urban development has tilted in favor of the opponents of development.

Altshuler and Curry cite three trends that underlie this shift: the development of consensual federalism; the extension of citizen participation; and judicial activism and preferred values.³ They use the term "consensual federalism" to refer to the fact that almost all publicly-supported development projects in urban areas today require the active cooperation of two or more levels of government. Federally-aided highway and urban transit investment decisions are an example. Proposals must be initiated by state and/or regional agencies, often in cooperation with affected local governments. They must then be submitted for advisory review to regional planning agencies and, in most instances, to a variety of state and federal agencies. Federal agencies also oversee decisions to allocate funds and award contracts, and must approve substantive products, ranging from planning reports and environmental analyses to actual construction. The procedural requirements associated with this process are so complex that parties left out of the emerging consensus on a project can almost always find a plausible ground for legal challenge. Thus power is widely dispersed, and any project that arouses significant controversy is doomed to defeat.⁴

Two popular movements that have had significant impact on urban development policy for the last decade or so are the anti-highway movement and the environmental movement. In recent years, they have been joined

by the neighborhood preservation movement and the historic preservation movement. Insofar as urban development is concerned, these groups have been more effective in opposing change than promoting it, even though many of the persons involved want to channel their energies in constructive directions. Imminent "bads" seem to be a more powerful galvanizing force than potential "goods," so negative reactions are more common than positive actions. As a result, the growth of citizen participation in development decisions has been an important conservative influence.⁵ For in most instances the status quo is zealously guarded, and construction that is likely to have a disruptive impact is opposed.

Since the late 1960's, laws have been enacted to protect the environment, improve the quality of governmental planning, guarantee opportunities for citizen participation, and protect those who may be adversely affected by development projects. The intent of this legislation is to underscore the values of previously underrepresented or minority interests that development agencies were thought to be neglecting. It has had the effect of elevating these values to a favored place in the framework of judicial priorities, thus strengthening the hand of those who would oppose development projects.⁶ With respect to urban development these changes have, like increased citizen participation, acted as barriers to change.

By adding to the stock of power held by opponents, the three trends discussed above make it more difficult to undertake urban development projects. A fourth trend acts in the same direction--against successful development--but by reducing the power of a group of persons who are among the strongest supporters of new development: mayors. They are increasingly faced with the problem of governing cities in which the traditional sources

of political power have for the most part been dispersed or eliminated. Old-style political machines are a thing of the past, and party organization is generally weak. Thus, mayors can no longer "buy off" their opponents with jobs, favors and patronage; nor can they rely on loyal party lieutenants who occupy lesser city offices and sit on the council. Instead, the power to govern must be pieced together from whatever sources are available. So even though mayors usually favor new development, they often have trouble building effective constituencies in support of projects.

The preceding discussion is not meant to imply that these trends have had the same effects in every city. In some places large, disruptive projects are still being constructed with minimal opposition. Renaissance Center in Detroit is a notable example. But in an ever-larger and more varied set of places, projects are meeting with stiff opposition.

Nor is the discussion meant to imply that these trends are undesirable. On the contrary, they have caused a great deal of poorly planned development to be stalled in its tracks, and have allowed progress to be made toward protecting important societal values, including environmental quality, neighborhood security, and participatory democracy. The discussion is, however, intended to demonstrate that the preponderance of power in the urban development arena is no longer held by those who favor new development. In fact, in some cities, the balance has shifted the other way. This brings to light a danger inherent in these trends: the possibility that new projects will be indiscriminately stopped, thus forcing cities to forego desirable as well as undesirable development.

The challenge, then, is to design a course of action that allows the benefits of new development to be realized, while at the same time

minimizing its most onerous costs. Given the trends described here, it is clear that this process will somehow have to accommodate and reconcile the differences between competing interests. The traditional approach to planning publicly-supported projects, in which essential decisions are made by a few key participants and then submitted to the general public for comments, has proved inadequate to the task. Resorting to litigation--now a common method of resolving development disputes--is costly, time-consuming, fraught with uncertainty, and divisive. Moreover, it has meant that judges, whose duty it is to interpret laws, are increasingly going beyond their bailiwick and making critical trade-off decisions in development conflicts. Thus, a growing number of observers argue that planning processes that involve affected individuals and groups from the beginning, and that explicitly allow for bargaining and negotiation, offer the most promising way out of the development impasse.⁷ To date, speculation about this kind of approach has overshadowed actual experience with it, but there is a small number of cases in which development conflicts were successfully handled through negotiation. One of these, the Copley Place project in Boston, is discussed below.

Copley Place

On April 30, 1980, the Boston City Council voted unanimously to approve an application for a UDAG to help build Copley Place, a development project recently characterized as "the largest, most expensive and most socially complex. . . ever proposed in Boston."⁸ Copley Place will be a mixed-use development including two hotels, a major department store, other retail space, offices, and some luxury housing; it is to be built over

the Copley Square interchange of the Massachusetts Turnpike. Upon hearing of the council's decision, the developers said that construction would begin within six months⁹-almost four years after they had first mentioned development of the site to state officials.

The council's vote ended several weeks of intense negotiations that had begun as the deadline for submitting the application to HUD was approaching. The city administration and the developer were at odds over a resident-jobs policy, and neighborhood groups concerned about displacement had pressed for a commitment to build housing adjacent to the site of the project. Agreements on these issues were reached just days before the deadline. Such negotiations had been an integral part of the planning process since its inception. In an attempt to avoid the development paralysis that had plagued other projects in the city,¹⁰ various levels of government, the developers, and citizens' groups had worked together throughout the process. This appears to have been a successful approach, and it offers lessons for other cities.

1976-77: The Plan Takes Shape. The planning process that eventually led to the Copley Place proposal began late in 1976 when developer K. Dun Gifford approached John Driscoll, Chairman of the Massachusetts Turnpike Authority, with plans for a large mixed-use development on air rights owned by the Authority near Copley Square in downtown Boston. Gifford had earlier formed a development company, Great Bay Co., Inc., with Ben Thompson, a Cambridge-based architect known for his design for the renovation of the Quincy Market complex. Thompson and Gifford had then entered into an agreement with the Chicago-based Urban Investment and

Development Corporation (UIDC), and had secured a commitment from Western International Hotels to build an 800-room luxury hotel as part of the development.

It was not until early in 1977, though, that actual planning for the project got underway. At that time, Gifford and Thompson met with Frank Keefe, Director of the Massachusetts Office of State Planning, to discuss their proposal. Keefe then discussed the proposal with Governor Michael Dukakis and Transportation Secretary Fred Salvucci. All three state officials were impressed by the proposal, both because of the firm commitment from Western International Hotels and because of the track record of UIDC, which had recently completed Water Tower Place, a nationally-recognized, multiple-use development in Chicago.¹¹

Keefe and Salvucci disagreed, however, on what the best way to respond to the development opportunity would be. Keefe argued in favor of granting the prospective developers an option on the property and for immediately initiating impact assessment and citizen review functions, thus facilitating the progress of the project. Salvucci contended that granting the option on the property would reduce public control over the scope and nature of the project. He felt that the more common approach of developing guidelines and later selecting the developer was fairer, and politically more prudent.¹²

In April, Governor Dukakis made a decision that was to shape the future of the project when he chose the course that Keefe advocated. Soon thereafter, the Turnpike Authority entered into a Memorandum of Understanding with UIDC that gave them a six-month option on the site, and the Governor asked the Office of State Planning to coordinate a six-month analysis of

the environmental constraints and "community desires" associated with the project. To accomplish the latter task, a "citizens advisory group" was to be established, and periodic meetings were to be held with state officials, UIDC, and project consultants. In a memorandum to other state officials, Keefe explained that "this decision-making process is reflective of the desires of state and city government to work directly and cooperatively with an interested developer. . .while ensuring full and active participation by public agencies and community groups to promote an appropriate and acceptable project."¹³

Shortly after the Memorandum of Agreement was signed, MIT Professor Tunney Lee was hired to organize and staff the citizens advisory committee. A list of potential participants was drawn up by Keefe and Dan Ahern, Director of the Back Bay Federation for Community Development. State Representatives Barney Frank and Mel King subsequently reviewed the list and added a few names. Eventually, letters of invitation were sent to groups as diverse as the St. Botolph Street Citizens Committee, a neighborhood association in a middle-class area; the Tent City Coalition, a group concerned with the needs of low-income South End residents; and the Back Bay Federation, a coalition of area businesses and institutions.

The Citizens' Review Committee (CRC), as the citizens' group became known, convened for the first time in the middle of May. Its initial charge was to formulate a set of recommendations for development of the site. The Committee was given a clear sense of the scale of the project and the mixture of uses it would contain, but little more. Thus it was, in effect, anticipating the impacts of a project that was still in the incipient stages of planning. The state put various technical resources, such as

advice on transportation and legal issues, at the CRC's disposal, and Lee himself handled the physical planning issues.

At first, CRC meetings were devoted to providing committee members with information about the development process and the impacts of development. After this was accomplished, the committee began to develop guidelines to present to the Office of State Planning and the developer. The process was one of continuous feedback: Lee would compile draft guidelines on the basis of what he heard at one meeting, and these would be presented for review at the following meeting.

The CRC presented its final recommendations to the Office of State Planning in September, and then disbanded. The recommendations were organized around statements of general goals, which were translated into guidelines and finally into specific steps expected of the developer, the state, and various community organizations. The goals, guidelines and specific implementation responsibilities varied considerably in their detail. Recommendations concerning community economic impact, pedestrian access and linkages, traffic, and project massing were quite specific; those concerning retail impacts, stabilization of the South End, and environmental impacts were rather general.

Because it had been actively involved in the CRC's deliberations, the Office of State Planning was not surprised by the Committee's recommendations. In the middle of October, Keefe forwarded them to UIDC along with a letter of support. A month and a half later, representatives from UIDC, the Turnpike Authority, and the Office of State Planning met to discuss the recommendations. With some reluctance, UIDC agreed to many of the committee's suggestions, including the provision of 100 units of housing,

modifications to the project's access ramps, and development of a portion of the site that had not been included in earlier plans.¹⁴

On December 15, the Turnpike Authority and UIDC amended the Memorandum of Understanding, thereby extending the developer's option on the property for a year. In addition, the agreements regarding the CRC's recommendations were incorporated into the Memorandum.

1978: Consummation of Negotiations with the State. In early 1978, the cast of characters changed significantly when Great Bay Co. withdrew from the project. Gifford had earlier run afoul of Boston Mayor Kevin White, and in discussions with UIDC, White had indicated that Gifford's association with Copley Place would not help the project secure the necessary approvals from the city.¹⁵ Since UIDC officials were also dissatisfied with Gifford's performance as the local agent for the development team, they decided not to continue the cooperative venture.¹⁶ The Architects Collaborative, a Cambridge-based firm, was hired to replace Ben Thompson.

Secretary of Environmental Affairs Evelyn Murphy issued a Determination of Scope and Alternatives for the project's Environmental Impact Report in May. It outlined the air quality, traffic and pedestrian circulation, visual quality, utilities and services, wind, noise, and hydrology issues that were to be addressed in the EIR. The consulting firm of Environmental Research and Technology was hired by UIDC to prepare the report.

The Office of State Planning reconvened the CRC late in June. The Committee began its second summer of work by reviewing the new development plans prepared by The Architects Collaborative. These plans conformed

substantially to their recommendations, so the CRC decided to concentrate on other issues. During July and August, Lee organized a series of workshops to investigate impacts from the project that had been given less attention than others in the first round of discussions. These included the effects on Back Bay business, the population composition of surrounding neighborhoods, and air quality.

By the end of October, Environmental Research and Technology had completed a draft Environmental Impact Report for the project, and CRC participants turned their attention to the study. Several members of the Committee expressed concern about the project's air pollution effects, especially the problem of "hot spots" at parking facility exits.¹⁷ Others felt that the impacts of traffic congestion and parking had been inadequately analyzed.¹⁸ The concern of Committee members was shared by Secretary Murphy, who approved the Environmental Impact Report but called for further examination of these and other issues.¹⁹

In the Democratic primary in September, incumbent Governor Dukakis was upset by Edward J. King. As a result, the state actors in the Copley case felt increased pressure to get the lease for the project signed. Negotiations at this time revolved around two major issues. The first was affirmative action provisions. After marathon bargaining sessions on this point, the state finally agreed to lower from 25 to 20 percent the number of construction jobs that would be required to go to minority workers. The second major issue was the rent schedule for the project; eventually agreement on this point was also reached.

The lease-signing ceremony occurred on December 22. Before the ceremony, Governor Dukakis issues a press release in which he hailed the

planning process for the project as "a national model for successful citizen participation in the planning and design of large-scale urban projects."²⁰ Mayor White also released a statement praising the project. Other endorsements came from a variety of neighborhood and community groups.

But not everyone was happy with the agreement. The Neighborhood Association of Back Bay, for instance, issued a statement that criticized the project as too large and charged that the traffic and air pollution impacts had been underestimated.²¹ And the Coalition for Responsible Development, a group of residents from the areas surrounding Copley Square, complained about cutbacks in minority hiring quotas, the elimination of a quota for hiring area residents, and the lack of mechanisms to prevent housing costs in the South End from rising.²² Nevertheless, Kenneth Himmel, project director and vice-president for UIDC, maintained that construction would begin in September.²³

1979-80: The Project Stalls and is Revived. At a public meeting three months later, UIDC announced that it had been unable to secure commitments from major department stores for the Copley Place project. In their place, Himmel said that UIDC was considering a second major hotel and other changes, but added that "currently there isn't a plan."²⁴ Officials of the Boston Redevelopment Authority reported that a \$10-15 million UDAG might be sought to defray public costs such as road and utility improvements.²⁵

In May, UIDC publicly unveiled a revised plan for Copley Place. It called for two hotels, a one-third increase in the amount of office space, and, possibly, a department store. UIDC representatives had earlier tried

out a new scheme on individuals and groups in the Back Bay, in an attempt to secure support for the plan before presenting it to the CRC.²⁶ This tactic was abandoned when the developer's representative realized how widespread support for the Committee was.²⁷

During the summer, the CRC focused its attention on the issues of affirmative action, housing development on the Tent City site, and revisions in the Environmental Impact Report required by changes in the development scheme. The city of Boston, which became the principal public participant in the process after the state signed the lease for the property, began negotiations on the so-called 121A tax agreement that is extended to most large developments in the city. At the same time, the Boston Redevelopment Authority began to investigate the possibility of applying for a UDAG to assist the project. Since both the tax agreements and the UDAG program require that projects benefit low-income persons, the CRC viewed these as opportunities to secure more construction jobs for minority and low-income residents from surrounding communities.²⁸

A draft application for an \$18 million UDAG was circulated for public review in November. It stated that the grant would be lent to UIDC, and that loan payments would be used for programs to benefit residents of the surrounding area. Most of the comments at the public hearings on the application concerned the impact the project would have on housing costs--an impact many felt would be reduced if more housing units were included in the project. For instance, at a meeting on November 19, representatives of the Tent City Corporation suggested that 270 housing units be built, of which 75 percent would be for low- and moderate-income families.²⁹

The winter of 1979-80 was marked by few events of significance. The developers refined their plans and prepared a draft EIS for the revised project; the city continued to work on the 121A tax agreement and the UDAG application; and the CRC formed a committee to review the design of the project.

The pace quickened in April, however, when the Boston City Council held hearings on the UDAG application, which the Boston Redevelopment Authority wanted to submit by the end of the month. Two issues became the focus of debate: the number of project-related jobs that would go to city residents; and the development of housing on the Tent City site. As stated by Mayor White, the city's position on employment was that "developers in Boston must hire Boston residents for 50 percent of the jobs associated with their projects."³⁰ On April 28, UIDC agreed in writing to require its contractors to make "good faith" efforts to reach this goal during construction, and also agreed to encourage its tenants to comply. The next day, after the Director of the Boston Redevelopment Authority pledged his support of a housing project on the Tent City site, the Tent City Corporation dropped its opposition to the project. On the last day of the month, the city council voted unanimously to approve the UDAG application.

Implications for Charleston Center

The participants in the Copley Place planning process decided to pursue an innovative, "up front" approach to planning for the project as much out of negative reaction to past experience as positive reaction to the opportunity before them.³¹ The Copley proposal followed years of wrangling

over another development project in downtown Boston--Park Plaza--for which a traditional planning process had been followed. In that instance, the Boston Redevelopment Authority formulated development guidelines, published a "developer's kit" and sponsored a developers' competition. After the developer was selected in 1971, he proceeded to prepared plans and an EIS without soliciting public comment. When these were unveiled, they met with harsh criticism. Attention was focused on the negative impacts of the project, causing such lengthy delays in securing the necessary approvals that 50,000 construction workers and their supporters staged a protest march at the State House.³² Construction of the project has yet to begin, and the original developer has long since withdrawn. This experience provided a strong incentive for state officials to try a different tack, one that would sustain developer commitment to the project, reduce the amount of time before construction began, and yield a more acceptable design.³³ The developers also realized that to build a large, complex project in Boston, a planning process different than the one used for Park Plaza would have to be followed, so they agreed to the state's proposal.³⁴

In many respects, the Copley Place planning process has been a success. It achieved agreements between the developers and the state and between the developers and the city in relatively short periods of time. And it successfully accomodated the often conflicting goals of a broad range of interests--community groups, environmentalists, a variety of state and local agencies, businessmen, and large public and private institutions. Major changes in the design of the project resulted from the process: housing was added; the location and configuration of the buildings were

modified; adverse impacts from traffic were reduced; pedestrian access between the site, the Prudential Center, the Back Bay, and the South End was improved; and affirmative action and resident employment quotas were included in agreements.

Copley Place is similar in many respects to Charleston Center. The developments were proposed at about the same time, and each would be among the largest projects ever built in its respective city. Boston and Charleston are old, densely-packed cities with essentially stable populations and improving investment climates. UDAGs would be used to facilitate the development of both projects, and in both instances city officials are strong project supporters. The nature and distribution of the costs and benefits associated with the projects would be similar. Finally, in Boston as well as in Charleston local groups have successfully opposed development projects.

Yet there are significant distinctions between the two cases that account for their divergent outcomes. One difference is that although neighborhood, historic preservation, and other local groups are important in Boston, they do not figure as prominently in the city's political life as they do in Charleston. Another difference is that the city of Boston, unlike the city of Charleston, has participated in numerous development projects--ranging from urban renewal projects to UDAG projects--that required it to cooperate with private developers. Thus, Boston city officials are aware of the complexities and pitfalls of such undertakings, and the staff expertise of the Boston Redevelopment Authority and other city agencies allows the city to be a contributing partner in such projects. But the most important difference is the contrast between the

planning processes for the two projects. In Charleston a traditional approach was taken: the project was planned by a handful of persons working beyond the range of public scrutiny, and no provisions were made for bargaining among the affected parties. In Boston the public was involved from the inception of project planning, and bargaining was an integral part of the process.

It would be premature to draw firm conclusions about the Copley Place planning process at this time, since a final assessment cannot properly be made until the project has been built. The experience thus far, however, has been encouraging. The following are among the lessons suggested by this process:

- o The "rules of the game" should be clearly established at the beginning of the planning process, so that potential participants are aware of how they fit into the process, of their responsibilities, and of what is at stake.
- o Citizen review and impact assessment functions should be initiated early in the planning process, before positions harden and before disputes arise.
- o The opportunity to participate in a citizen review body should be available to all interested persons, and the activities of the citizen review body should be widely publicized, thus adding to its legitimacy and credibility.
- o The planning process should include mechanisms for incorporating the suggestions of the citizen review body into the plans for the project, and for binding participants in the planning process to the agreements they make.
- o Participants should not become locked into long-term, irrevocable agreements at the beginning of the planning process: they should enter into agreements that allow them to test and then confirm or modify their working relationships and approach.
- o Someone should be hired to organize and staff the citizen review body; he should be trusted, flexible, and knowledgeable about the issues at hand.
- o The citizen review body should be provided with adequate technical support.

o Compensation should be viewed as an acceptable solution to otherwise irreconcilable differences of opinion.

It does not seem unreasonable, then, to argue that if a similar approach had been followed in planning for Charleston Center, the status of the project would be very different. For the explanation of why the case has turned out the way it has lies less with the substance of the proposal than with the process by which it was developed and presented. In a city where political accommodation and close cooperation between citizens' groups and government are common and expected, city officials and other supporters of the project chose an adversarial approach which left little room for constructive dialog. Part of the blame can be attributed to the UDAG program, which encourages cities to hurriedly put together proposals and enter into agreements with developers. But as the Copley Place example makes clear, UDAG involvement does not preclude the use of a flexible and sensitive planning process.

If the proponents of Charleston Center had been amenable to bargaining and conciliation, construction might well have begun by now, although on a project much different than the one now proposed. And there are reasons to believe that such a process would have been successful. First, all the participants agreed that something should be built on the vacant Belk property. They disagreed, of course, as to what kind of development it should be, but with some effort an acceptable compromise could have probably been reached. Second, the major groups involved in the controversy are well organized and have spokesmen. Thus, it would have been relatively easy to identify and bring together participants for a joint planning process. Third, there is a tradition of cooperation between citizens'

groups and government in Charleston. Until the Charleston Center controversy arose, these groups understood and trusted each other. Fourth, all of the major participants in the case had something to trade. The proponents had the project and its associated jobs, tax revenues, and so forth; the opponents held political power and the threat of legal action. Finally, there were focal points around which negotiations could have been structured. For instance, public hearings on the UDAG application and the EIS were available forums for resolving conflicts.

Perhaps the cruelest irony of the Charleston Center case is that if the proposed project is blocked, the developer will probably build a Holiday Inn or similar hotel on the site. No one in Charleston would like to see this outcome, yet it looms over the dispute. Thus, in the end the controversy might prove to be worse than a game in which one side wins and the other loses: it could be a game in which almost all the participants lose.

It is unclear why the Mayor and other proponents chose to exclude the city's many neighborhood and historic preservation groups from the planning process for the project, and why they later chose to fight these groups rather than accommodate them. Some observers believe that the proponents naively underestimated the sophistication and power of these groups, and that they were surprised by the barrage of criticism the proposal received. Others offer a different explanation. They maintain that Mayor Riley was aware that the project would engender opposition, but felt that if he confronted the opposing groups head on, they would eventually capitulate. People tend to be more impressed by personal experiences than by vicarious experiences; maybe this is also true of government. If so, Charleston

Center may serve as Charleston's Park Plaza, and the next major development proposal will be handled quite differently. For if the case demonstrates anything, it is that if development disputes are to lead to constructive ends, they must be properly managed.

NOTES - CHAPTER FIVE

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