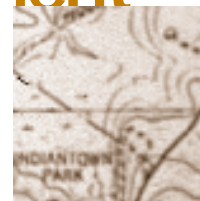


Archeology, Land Use, and Development

Educating Communities Through Comprehensive Planning



One of those self-evident truths is that “all politics are local.” Domestic policy initiatives, whether emanating from Washington, DC, or a state capital, are truly successful only if embraced by the merchant on Main Street, local elected officials, homeowners, and taxpayers. As with politics, the success of cultural resource management and archeological protection initiatives will be measured at the local level. If cultural resources are destroyed, it is because builders, developers, property owners, and local government officials are unaware of their presence and importance, or simply do not care.

In Ledyard, Connecticut, one of the goals of the Planning Department is to sensitize town residents and officials as to the need for locally-derived archeological protection initiatives, and to incorporate these concerns into land use planning regulations. This effort had its unfortunate impetus in 1989 as a result of the abrupt discovery of a late-17th-century Mashantucket Pequot tribal burial ground after a subdivision had been approved by the local Planning Board and after excavation of a house foundation had already begun.

Cool heads prevailed and after the professional recovery of human remains and associated funerary objects was initiated, Ledyard's planning staff, along with Mashantucket Pequot Tribal representatives and their in-house archeologist, the State Archaeologist, and staff archeologist from the Connecticut Historical Commission, joined together with a common goal of preventing this type of incident from ever happening again.

The result of these meetings has been three-fold:

- 1) Ledyard's comprehensive land use plan was amended to include a detailed chapter on historic and archeological protection;
- 2) The town became a “Certified Local Government” pursuant to criteria of the National Park Service and the Connecticut State Historic Preservation Office, in order to become eligible for matching federal grants for local preservation activities;

3) Ledyard's subdivision regulations were amended to include a new chapter on cultural resource preservation and management.

The Comprehensive Land Use Plan

The general statutes of nearly 20 states contain enabling language either requiring or encouraging written comprehensive plans by local government. These plans serve as a guide not only for planning and zoning boards when adopting land use regulations, but they can also assist the judicial system in determining the constitutionality of a local regulation should it be challenged in court. For example, the Connecticut Supreme Court has established that planning and zoning boards may consider historic preservation issues in their local land use regulations and decisions, provided that preservation has first been adequately addressed in the town's comprehensive plan (*Smith v. Greenwich Zoning Board of Appeals*, 227 Conn. 71, 1993). The clear message of the Connecticut Supreme Court, however, is that communities must be proactive and have an adopted comprehensive plan that specifically addresses local concerns. Ledyard's most recent townwide plan was adopted in June 1993, after conducting three public hearings designed to elicit community input. Formal comments on the historic preservation chapter were obtained from the State Archeologist, staff archaeologist at the Connecticut Historical Commission, and from the local historical society. Ledyard's adopted comprehensive plan contains maps and a list of all properties on the National Register of Historic Places, including the Mashantucket Pequot Tribe's 213-acre archeological district which became a National Historic Landmark in 1992. This local land use plan outlines four basic objectives:

- Identify and avoid historic and archeological sites prior to construction. This is accomplished either proactively through broad, townwide cultural resource surveys, or by detailed archeological investigations of individual properties that are

A local planning and zoning public hearing on the merits of a proposed residential subdivision, Ledyard, CT.



the State Archaeologist or State Historic Preservation Office must be made within two working days after a subdivision's preliminary review. The determination of need for an archeological survey is then made by professional archeologists, rather than by members of a land use board subjected to local political pressures. An outside professional opinion reduces the chance that opponents of a development can misuse words such as "archeology" to

proposed for private development or municipal capital projects.

- Preserve archeological sites *in situ* rather than excavate or salvage identified remains. Developers are encouraged to realign or relocate proposed roads, buried utilities and buildings, or to dedicate identified archeological sites to parks and open space.
- List additional properties on the National Register. Although most in Ledyard will be standing 18th- and 19th-century homes and farmsteads, this creates greater public awareness and broader respect for local preservation initiatives.
- Obtain Certified Local Government designation from the Connecticut Historical Commission and National Park Service, thus becoming eligible for matching federal grants for local preservation activities such as surveys and preparation of National Register nominations.

Ledyard's Subdivision Regulations—Enforcing the Local Comprehensive Plan

Eighteen towns in Connecticut have revised local subdivision regulations and or local site plan review procedures in order to specifically identify and protect significant archeological and historic sites. Ledyard's regulations are noteworthy for their clarity and direction to developers and their advocacy of *in situ* preservation wherever possible.

Adoption of Ledyard's regulations, however, came only after a contentious public hearing at which several local developers claimed that archeological surveys would be used by their opponents to slow down an already lengthy review process. To satisfy these concerns, the Planning Board's final regulations specify that a referral of plans to

throttle or delay an unpopular project.

In order to prevent a court challenge based on vagueness, another key element of Ledyard's regulations is a precise definition of "cultural resources:"

CULTURAL RESOURCES: consists of historic and prehistoric archeological sites and standing structures; cemeteries, human burials, human skeletal remains, and associated funerary objects; and distributions of cultural remains and artifacts.

If the State Archeologist or State Historic Preservation Office determines that a professional archeological survey is warranted, standards to be followed are contained in the Connecticut Historical Commission's Environmental Review Primer for Connecticut's Archeological Resources. It is the developer's responsibility to pay for this professional assessment, just as he would pay for a project's architect, civil engineer, or surveyor.

The final section of Ledyard's subdivision regulations outline the contents of a management plan to be prepared by a professional archeological consultant. In addition to a standard investigative report that contains research methodology and a description of discovered sites and features, the management plan calls for:

A description of measures to be undertaken to mitigate adverse impacts of construction activities on identified cultural resources. This may include an estimate of mitigation costs and time required for more extensive investigations. Measures may include open space dedication; conservation easements; redesign or relocation of roads, drainage features or buildings so as to minimize adverse impacts;

Mashantucket
Pequot Indian
Reservation site.

or excavation and removal of cultural remains supervised by a professional archeologist.

Given the emphasis on *in situ* preservation, excavation is intentionally placed last on the list. By emphasizing early detection of cultural resources during a project's design phase, archeological sites and human burials can be more readily incorporated into a subdivision layout, with avoidance of these features during construction.

Getting Started with Your Own Local Plan

The introduction of archeological protection into local comprehensive plans and land use regulations is so new that little has been published on the subject. However, a surge of local interest in protecting the historic built-environment has been accompanied by a new wave of planning and local laws. The American Planning Association has published several reports that examine elements of good historic preservation plans, and that offer advice on the drafting, implementation, and legal defense of a historic preservation ordinance. Although these publications focus on standing historic properties, only a little bit of imagination and creativity is needed to translate their focus to that of archeology and cultural resource management. But the archeological community—both professional and amateur—must take the lead and carry the banner of archeological protection to city hall, and to the local boards and commissions who must in turn adopt comprehensive plans and enforce the regulations.

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