

Appendix A:

The Process of Designating Historic Neighborhoods

The responsibility for the creation of a historic district in New York City falls on the LPC, which is made up of 11 members, including at least three architects, one qualified historian, one city planner or landscape architect, one realtor, and one resident of each of the five boroughs, all of whom are appointed by the mayor for three-year terms.¹

The LPC may propose historic designation on its own accord, but often relies on the efforts of community leaders and activists to bring neighborhoods up for consideration.² Suggestions from outside the LPC most often begin with a Request for Evaluation (RFE) filed with the LPC.³ Typically, civic organizations and community groups provide extensive supporting material along with each RFE.

When a designation proposal is submitted, the RFE Committee, which includes the Chair of the LPC along with various LPC staff members, evaluates the submission to determine whether the full LPC should consider it.⁴ The LPC staff documents the characteristics of the proposed district, a process that includes on-site survey, meetings with local community members, and discussions of the boundaries of the potential historic district. Because districts are required to contain only contiguous lots, the staff of the LPC must evaluate the architectural and historic quality of all the buildings within a proposed district before settling on the boundaries.

Following the evaluation by the RFE Committee, the Chair decides whether to forward the proposed designation to the full LPC.⁵ If so, the LPC reviews the RFE Committee's statement of the significance of the proposed district and the Committee's recommendation, along with photographs and other documentation, at a public meeting. To move the proposal forward, a majority of the Commissioners present must vote to "calendar" a proposed designation.⁶ Owners of the property in question are not necessarily given notice of the meeting at which a proposed designation is calendared, however, nor is a public hearing required prior to the calendaring decision.⁷

¹ N.Y.C. Charter § 3020(1), (2) (2009).

² NEW YORK CITY LANDMARKS PRESERVATION COMMISSION, *FAQs: The Designation Process*, http://www.nyc.gov/html/lpc/html/faqs/faq_designation.shtml (last visited October 13, 2011).

³ An RFE is not required by law, but it is the LPC's preferred form for receiving a new request.

⁴ *Id.*

⁵ There is no set timeline for determining whether a proposal should be submitted to the full LPC, so proposals can remain in an indeterminate status for long periods of time (e.g., see Pogrebin 2008).

⁶ Rules of the City of New York, Title 63, Landmarks Preservation Commission Rules 1-02, 1-01 (July 2003). Note that the meeting is not required by statute or rules to be public, but the LPC indicates that such meetings and votes are to be public. NEW YORK CITY LANDMARKS PRESERVATION COMMISSION *supra* note [2]. The LPC is not required to vote on calendaring every proposed designation, and each proposal is not required to go through the RFE Committee in order to be reviewed by the full LPC. Although the practice of the LPC is to consider proposals in the manner described here, the only requirement in LPC rules and the city administrative code is for a vote to calendar by a majority of the commissioners present (with a minimum of six Commissioners required for a quorum).

⁷ Mitch Korbey, Landmarks Commission Does 30!, Herrick Zone, July 11, 2012, available at http://herrickzone.com/?p=1094&utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+herrickzone%2FXUTE+%28HERRICK+ZONE%29

While district boundaries can be modified with the same land area or reduced to a smaller land area between the dates of calendaring and designation, they cannot be enlarged.⁸ In principle, when the LPC calendars a proposed historic district, the Department of Buildings stops issuing permits for development and renovations while the LPC has the proposed district under consideration. In practice, it is not clear that the calendaring of proposed districts actually does prevent or dissuade the Department of Buildings from issuing work permits.

Once a proposal is calendared, the LPC is required to hold a public hearing, during which New York City residents, including property owners and other interested parties, are invited to offer their opinions on the proposed historic district.⁹ The LPC must provide notice of a planned hearing regarding a proposed designation to the City Planning Commission (CPC), the office of the borough president for the borough in which the district is located, and any affected community boards.¹⁰ Further, the LPC must publish notice of any public hearing in the City Record for the ten days preceding the hearing, and must provide notice by mail to the owner of any property in the proposed district.¹¹

At the public hearing, LPC staff makes a presentation about the proposed designation, and property owners and other interested parties are given an opportunity to speak.¹² These parties also may submit written comments.¹³ No environmental review is required prior to the hearing, unlike the case for zoning changes.¹⁴ After a hearing, the LPC may officially designate a proposed district by a vote of at least six commissioners.¹⁵ While a proposed historic district is under consideration, the staff of the LPC completes a “designation report” outlining the boundaries of the district, and describing the historic and architectural significance of buildings within the proposed district. If the LPC ultimately designates a historic district, that designation report forms the basis of the justification for the designation.¹⁶ The designation is effective immediately upon the LPC’s vote.

The LPC must then file the designation report with the City Council, the CPC and other city agencies.¹⁷ While the designation need not go through the CPC’s Uniform

⁸ HISTORIC DISTRICTS COUNCIL, *Preserving Your Historic Neighborhood: New York City Designation Process*, <http://www.hdc.org/preservingnyc.htm> (last visited October 12, 2011).

⁹ N.Y.C. Charter § 3020(7). See also N.Y. Admin. Code § 25-313.

¹⁰ *Id.*

¹¹ N.Y.C. Admin. Code § 25-313(a) (2010). Such notice must be provided by registered mail to any owner of any property at the owner’s last known address as recorded by the commissioner of finance, or alternatively if no such record, by ordinary mail to the street address of the property in question. *Id.* In practice, this notice to property owners includes a copy of the designation report prepared by LPC staff. NEW YORK CITY LANDMARKS PRESERVATION COMMISSION *supra* note [2].

¹² NEW YORK CITY LANDMARKS PRESERVATION COMMISSION *supra* note [2].

¹³ *Id.*

¹⁴ Korbey, *supra* note [].

¹⁵ Landmarks Preservation Commission Rules 1-04. Note that whereas a simple majority of the commissioners present is sufficient to calendar a proposal, an absolute majority of the LPC must support a designation, regardless of the number present for the vote.

¹⁶ N.Y.C. Admin. Code § 25-302(f)(1).

¹⁷ N.Y.C. Charter § 3020(8). The designation must be filed with the CPC within 10 days of the designation action, and must also be filed with the city council, the department of buildings, the Board of Standards and Appeals, the Fire Department and the Department of Health and Mental Hygiene. N.Y.C. Admin. Code § 25-303(f). In practice the LPC provides the CPC and other city agencies with a copy of the final

Land Use Review Process,¹⁸ the CPC must hold a public hearing on the designation of a district and provide its own report on the designation to the City Council within 60 days.¹⁹ The CPC report must address how the designation relates to existing zoning requirements, plans for “the development, growth, improvement or renewal” of the area, and “projected public improvements.”²⁰ The CPC report also may recommend the action it believes the City Council should take regarding the LPC designation.²¹

Within 120 days of receiving the LPC’s designation report, the City Council is empowered to modify or reject a proposed district.²² While the Council has rejected individual landmark designations in recent years, it has not rejected or changed any district designations.²³ The mayor may veto a modification or rejection within five days of the City Council’s vote. The City Council then has ten days to over-ride the veto by a two-thirds vote.

designation report, although this is not expressly required by statute. NEW YORK CITY LANDMARKS PRESERVATION COMMISSION *supra* note [2].

¹⁸Korbey, *supra* note []. For information about ULURP, see [].

¹⁹ N.Y.C. Admin. Code § 25-303(g)(1).

²⁰ *Id.*

²¹ *Id.*

²² N.Y.C. Charter § 3020(9), N.Y.C. Admin. Code § 25-303(g)(2). A majority of the city council may either modify or “disapprove” a designation by the LPC. *Id.* Following a vote on such an action, the Mayor may disapprove the action of the city council within five days, in which case the city council may overrule the Mayor with the votes of two-thirds of its 51 members to reinstate the city councils disapproval (thus defeating the designation by the LPC) or modification. *Id.*

²³ Pearson, Marjorie. *Ibid.*